App. F. IX-4

Previous References
Home 14-33(1-3)

1935.
(Legis.)

File No. 18
Serial Nos.

PRESERVED

Later References
I&C 11-35 (57

General and Revenue Secretariat.

Serial Nos. One

Manuscript A. Co[illegible] Act

Proceedings ~~Part B~~ for July 1935—

SUBJECT.

Amendments to the Mysore Co-operative Societies Regn
Regn I of 1935—

Note nop 310 dt 15-7-35 Com[illegible]

orders re publication of
Regn as a Regn I of 1935—

Manasvamy Iyengar

G. R. S. APP F. III—1] 1935

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 18-35

FILE HEADING.

Amendment to Mysore Cooperative Societies Regn. — Regn. No. II of 1934

FROM

No.	Dated		Received
Diary No.	Enclos.	Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

WD 01683—GPB—5,000—3

563/D

General and Revenue Secretariat | File No. Legis. 18 of 1935. | [App. F. III—

Serial No.

3) To the Devl. Dn with Compts (
kindly furnishing us the corresp
regd to Legislative Members and Au
Dn
Yrs
Illegible

4) L. Mc. file No. 29-32 relating
amendment of the R. M. Bank Bye
referred to Legislative Member of Council w
put up below for information & necy
return to enable this Devl. Branch to
take further action therein as ordered.
Illegible.

Usl Cl to Supdt. Protection Branch. (
Illegible
Compliments

Illegible file may kindly be sent after issue of C
Illegible Devl. Dn
Illegible

5) The L. M. file no. 29-32 re amendment
Bye laws of the Bank was returned as not
the required file. There is no other file in the
subject of amending the Regulation. except a recen
from the Presdt. L. M. Bank forwarding a set of
proposals sent with this file—

Illegible Put Up
Illegible Civil Compts

Submitted with reference to para
4 copy of the Madras Act. X

NOTE—Contn. Sheet.

WD 01955—GPB—22.500—12-6-34

The Madras Co-operative Land Mortgage Banks Act, 1934 is based on the proposal of the President of the Co-operative Land Mortgage Bank and is in the nature of an amendment of the Registration of Co-operative Societies Act of 1918 as amended by Regn VI of 33 so as to include Chapters III to V of the Madras Act with necessary changes.

98 The proposal of the President of the Land Mortgage Bank is to incorporate in the Regulation the provisions in chapters III, IV & V of the Madras Act, 1934.

Under the Regulation the only remedy provided in case of default of payment of instalments is to recall the loan & to apply to the Registrar for recovery of the loan who may then order sale of the land

Serial No.

& Sale of the produce of the land inc
standing Crops (Sec 9). The other sections
in chapter III are incidental to the
exercise of this power.

2) Where the mortgage deed confers
power of Sale without the intervention
the Court the Bank may bring to sale the
mortgaged property without going to Court
for recovery of the mortgage money
or part thereof. (under the Transfer of [Chapter IV Sec 13]
Act, the mortgaged property can be sold
through the Court for recovery of the money.
The other sections in chapter IV are incid
to the exercise of this power.

3) chapter V Consists of Certain
Miscellaneous provisions such as the
right to exercise the above powers who
the mortgaged property is destroyed, etc

The provisions of the Madras Act may
adopted
Genl Sec)

I agree.

Hon'ble Member

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

Sinbd with draft Bill

A draft Bill on the lines of the Madras Land Mortgage Bank Act has been prepared: only chapters III, IV & V are proposed to be adopted.

1) According to the Madras Act there will be one Central Land Mortgage Bank at Madras & its Board of Management is defined as the Board. This Board has been granted certain powers under the Act in connection with the recovery of the dues of the primary banks.

Only one co-operative society, by-laws does not contain at present a definition of the central Land Mortgage Bank & its Board, a definition has been inserted in the Bill.

(2) Powers under the Madras Act given to the Registrar or Joint ... appointed by Govt as Trustee for the Central Land Mortgage Bank. In our Regulation

Serial No.

proposed to confer the powers of the Trust on the Registrar who will be the Trustee if Nobody else is appointed.

3) under Sec 20 of the Madras Act a Receiver who may be appointed by the Board has the powers to disburse apply the income of the land in accordance with the provisions of Sec 69A(8) of the Transfer of Property We have no Section corresponding to Sec 69(A), as it was introduced in British India by an amending Act in

Consequently in the draft Bill, provisions of Sec 69 A (8) are ~~[illegible]~~ upon with suitable changes.

4) under Sec 24 of the Madras Act, priority given to a mortgage in favour of a Bank any claim of the Govt arising from a loan under the Land Improvement Loans Act granted after the execution of the mortgage.

Sec 194 of our Land Revenue Code provides for granting loans for agricultural purposes not specified in the Land Improvement Loans Regulation. In the draft sent by the Registrar of the Land Mortgage Bank, priority is given to mortgages to the Bank over loans under the Land Improvement Loans Reg & also the

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

Land Revenue Code. The clause on the draft Bill is on these lines.

5) Sec 38 of the Madras Act confers certain powers of supervision to the Central Bank over primary Banks in our regulation there is no similar sec but under sec 66 (b) it seems to be possible for govt to frame rules regarding the relationship between the Central Bank & the primary banks. Consequently no clause similar to our 38 of Madras has been inserted in the draft Bill.

The Registrar of Cooperative Societies has not sent any opinion re the adoption of the Madras provisions.

OFFICE OF THE FIRST MEMBER OF COUNCIL 24 SEPT. 1934 No. 2342

Bill to amend the Co-operative Societies Regn

General and Revenue Secretariat	File No. 18 of 1935.	[App. F. III-
Serial No.		

Draft Bills

From 27/9 Regr

To Govt

Issued No P 1608 Dt 28.9.34

Draft Bill has been framed as per instructions omitting chapter IV of the Act re power of Sale without intervention of the Court.

The Registrar has sent the proc of a meeting of the Committee of the Mortgage Bank. They also agree that provisions of the Madras Act in chapter V may be introduced into our Regn

The Registrar has suggested certain amendments in Secs 52, 53 & 54, re between a Central Land Mortgage Bank & land mortgage banks. The sanction to byelaws, it is proposed should be only in the case of the Central Bank Amendments in respect of these sects also included in the draft Bill

& Members)

Govt - Please submit Govt's views may be included in the agenda

Le 30/10

WD 01955—GPB—22,500—12-6-34

File No. 14 of 1935. General and Revenue Secretariat

may be included in the agenda for the next R.A. Meeting of H.E.H.'s Executive Council

Second Member

Dewan

Conf.
5.10.34

J.P.V.
5/10

DEWAN'S OFFICE
5 OCT. 1934
No. 1890

5-10-34

2857
6/10

Issue
5/10/34

In R.A. office
for retaining copy
of the Statement

See
6/10

Copy of the Statement was handed over in person to the Secretary R.A. D.C. & print ordr given to the same. This may be returned to the Protection Branch.

6/10

D.R.O. Seeduwa

DEWAN'S OFFICE
8 OCT. 1934
No. 1943

6/10 1st Reminder

6/10/34

Final Note signed by Member.

Final Note by the First Member of Council.

Subject:—

Bill to further amend the Mysore Co-operative Societies Regulation, VII of 1918.

The President of the Mysore Co-operative Land Mortgage Bank, Ltd., Bangalore, suggested certain amendments to the Mysore Co-operative Societies Regulation on the lines of Madras Act X of 1934.

The Registrar of Co-operative Societies was consulted and the amendments were considered by a Committee of the Board of the Land Mortgage Bank. The Committee and the Registrar are of opinion that the amendments are generally suitable, but that there is no necessity to adopt the provision made in the Madras Act to invest the Land Mortgage Bank with the power of bringing "mortgaged properties" to sale without the intervention of the Registrar or the Civil Courts. The other amendments are agreed to and the Registrar has also suggested some minor amendments. These amendments provide for speedy recovery of arrears from defaulters and are explained in detail in the statement of general principles placed below.

It is proposed to accept the recommendation and to place the statement of general principles before the Representative Assembly at its ensuing Session.

The proposal which has been agreed to by the Dewan and the Second Member of Council may be graciously approved.

MEMBER OF COUNCIL.

Camp Mysore,
8th October 1934.

11 15)

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* the Bill to further amend the Mysore Co-operative Societies Regulation, VII of 1918 *for His Highness' gracious approval.*

Mysore,
9th October 1934.)

Mirza M. Ism
Dewan.
9-10-34

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Bill to further amend the Myso Co-operative Societies Regulation, VI of 1918.

(illegible)

No-188

Order.

KRW
10/10/34

13 1917 12

General and Revenue Secretariat

Bill to further amend the Mysore Cooperative Societies Regulation of 1918.

(*).

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

R. Rangachar

Chief Secretary to Government.

Through the Secretary to Government,

..... Genl ..... Department.

2984
13/10/34.

FIRST MEMBER OF COUNCIL. 13/10/34

2837
13/10/34

SECOND MEMBER OF COUNCIL.

13/10

General Secy with Comps

NOTE.—Contn. sheet.

15.10.34.

14/10/34.

16/10/34

1991

Bill further to amend Co-operative Societies Act (13

General and Revenue Secretariat | File No. | of 193 | [App. F. III–

Serial No.

The file may be sent to the Dep. Sec. to Govt as the Judge is the Secy in charge of the administration Branch
Bom 14/10

Dear Sir) 6/7/1978

The Personal Asst of the Dep. may give directly putting up the file of the G.G.S. Gazette P.V. for any to June 33
Bom 7/10

The General Principles of the were discussed in the D.A on 22. and were adopted.

The proceedings pertain thereto are sent herewith.

It is for consideration by the Bill has to be placed before the Legislature and whether the Bill has to be published under Rule of the Rules of Business of the Legislative Council

The Statement of General Principles may perhaps be adopted as the Statement of Objects and Reasons. Ltd
Bom 23/11

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

A draft Bill as submitted
& approved this will be published under
Rule 8 for introduction in the L.C. Le
date for publication in the Gazette is 29
1st November)

Ce
20/11/34

lw
21.11.34

Gen Sec
2nd Member
Dewan)

Ce
21/11/34
and
21-11-34

SECOND MEMBER OF
22 NOV. 19
No 3712

√ 22/11

MS
22-11-34

Two proofs of the Bill taken for final necessary
ction and the file put to Prot: Dr. with the compts)

Rec'd
27/11/34
OFFICE OF THE SECRETARY,
27 NOV. 1934
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.

MM
27/11/34

Sent for perusal. After the Bill
appears in the Gazette, Robinson will

Bill [illegible] to amend the Ry Co-operative Societies &

General and Revenue Secretariat | File No. 14 of 193 5. | [App. F. III–

Serial No.

The Bill has been published under Rule 8 of the Rules of Business of the Legislature.

The following motions are suggested for inclusion in the

1 Cr Robin That the Bill published under Rule 8 of Rules of business be read in Co

2 Robin That the Bill referred to a Select Committee

Coner the First Member

Seconder the Devt Secy

the personnel of the select may also be considered.

The Select Committee may be appointed at the Session

Devt Sec 3/12

Devt Sec)
1st Member)

3
4/3/35

4410

Ker 4/12

4/12

To

The L.C. office for kind note

noted and put to the Prot.-Br.- with compliments

5/12/34

Secy. L. C.

NOTE—Contd. on Sheet.

Select Committee.
Lord Sir Nevr.

Mr S. M. Mehta

Mr R Ranga Rao
Mr Nagswara Aiyar ✓
Mr K.R. Srinivasaiyar ✓
Mr K.T. Bhashyam Iyengar ✓
Mr Chamarekharaya ✓
Mr Chenjaiah retd ✓
Mr Khan Bahadur Khas

The Secretary to the Select Committee are requested to note the names and return this form duly filled in

Bill to amend the Co. Ordinance &c

General and Revenue Secretariat

File No. 15 18 of 193 5.

Serial No.

The Bill that has been referred to a Select Committee of Council are solicited regarding the date by which it could be ready for introduction.

Dec 22/12 NSB

A date in the last week of January or 1st week of February may be suitable (or Member)

LC 22/12

OFFICE OF THE ... COUNCIL
22 DEC. 1934
No. 5086

4th Feb 1 PM

LC 24/12

LC 2/1/35

Draft notice of meeting sent Dec 31.1.35

Issue LC 31/1/35

TYPE ... 3. ... L & R...

Com No 3387 of 4/9.1.35

to

the Members of the Sel Com forwarding notice of meeting at 10 a.m. on Tuesday 4.2.35

Sent 1.2.35

NOTE—Contn. Sheet.

WD 01955—GPE—22,500—12-6-34

5788 p82

RAJASABHABHUSHANA
K. R. SRINIVASIENGAR
RETIRED MEMBER OF COUNCIL

FIFTH ROAD, CHAMARAJAPET
Bangalore City, 19

Kumbakonam
16/1/35

General Sec

Dear Subramania Aiyer

I have received notice of the Select committee meeting to be held on 4th Feb. to consider the Bill to amend the Co-operative Societies Regulation. I do not expect to be back in Bangalore before the 10th Jan. I shall therefore be glad if the Select committee meeting can be held some day after the above date. If this cannot be done I shall take the chance of being able to go to Bangalore for the meeting on the 4th Prox.

Yours truly
K R Srinivasiengar

I enclose herewith a letter received from Mr. Ramaswami Iyengar regarding the undermentioned

Dated for orders with the papers for

Prox 18/1 MR

The notices have been issued to the Members of the Committee. For orders if 4th February may stand or it is to be changed (If Rescheduled)

18/1/35

Mysore Chamaraja 4th Feb

Bangalore Chamaraja Prox

TYPING SEC
21 JAN 1935
GENL & REV. SEC

NOTE—Contin. Sheet.

WD 01955—GPB—22,500—12-6-34

(19) Bill to amend the C.S. Regs

File No.

General and Revenue Secretariat

Our No P 3612 of 21.2.35

to

The Members of the Select Committee

Forwards notice advising the date of meeting to 18.2.35 & meeting of 4.2.35

The Select Committee meeting was held on 18.2.35

Draft report of the S.C and a copy of the Bill as amended are submitted for approval. Copies of the draft report will be sent to the members of the Committee for their approval

For orders if the Bill as amended may be republished in the Gazette.

(1st Member) 6/3/35

Approved may be republished

[illegible]

Send copies to members.

[illegible]

Sd/- with drafts forwarding copies to S.C members

TYPING SECTION
GEVL & REVS
5 MAR 1935

Draft

3984

Bk. i news the Co. Spinning Sources.

'918

General and Revenue Secretariat | File No. 18 of 1934 | [App. F. III—

Serial No.

No P 4808-7.A 5/6.3.35

To

The Members of the S.C

Forwards copy of draft rep

in approval & returns

The draft Report has been received (1) duly approved from Messrs D. Rang & Khan Bahadur Abbas Khan (2).

Mr. D. G. Chenduraethanar has also returned it duly approv

He desires that some mention may be of the fact that he brought up for consideration of the committee the question of exempting a portion of the pro from attachment and that in view of the general sense of the committee he abandoned the

Mr. Sir. (4) Srinivasa Ayyangar has also returned it, approved & sign

He however suggests that the word 'primarily' may be inserted before the words 'for the liquidation' in definition of 'Co-operative Land Mortgage Bank, unless the omission deliberate.

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

Mr Registrar of Co-operative Societies has send an ad-interim reply stating that he will forward his views before the next

Replies are still awaited from Messrs K. T. Bhashyam, A. D. Nageswara Ayyar & K. Chengalraya Reddi.

Draft sent A reminder may be sent

Form 15/3 a 15/3

Draft reminder sent

Form 16/3 Issue not 16/9/35

issued p 5173-75

Mr K Chengalraya Reddi has returned the draft Report signed & enclosed a short note of explanation regarding the grant of Special Concession to Co-operative Land Mortgage Banks as creditors & one Co-parcener of a joint undivided Family. This may perhaps be alternative to the Mr A. D. Nageswara Ayyar has

General and Revenue Secretariat | File No. (x of 193 5

Serial No.

has returned the draft Reports with his approval.

The Registrar of Co-operative Societies, Straits Settlements has suggested that the words "or Banks" and or Central Banks in sub-clauses (i) and (ii) of Clause 2 may be omitted as there are Urban Banks and Central Banks issuing loans other than on the mortgage of agricultural lands. This is for orders after the report has been approved by me (Mr. W. T. Blackley concurs and is also due) in the form proposed - is perhaps not desirable to open controversial points.

The Registrar also suggested that the words "or" at end of Cl. 66 (i) may be omitted. The word is for clarity and may perhaps remain.

If approved the Registrar may be informed accordingly and his approval to the Report as proposed & adopted by the majority obtained.

Sd/-

Sd/- [illegible]
21/3/35

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

File No.

_____

_____ have been
received from the members are summ-
-ed following all the points raised :—

1. Mr. K.R. Srinivasa Iyengar.

He suggests that in the definition
co-operative Land Mortgage Bank, the word
primary may be added after "formed" as
it has been deliberately omitted. We are
not in the D.C as the idea was to use
term 'Co-operative land mortgage bank' to be a
'Central Bank' as well as a 'primary bank'.

2. Mr. R.S. Mekhri (Registrar)

(a) He suggests that the words "or Bank
"or Central Bank" in sub clauses (i) & (ii) of clause
may be omitted as there are other co-operative banks lending
money on any thing than agriculture lands.

Reply definitions occur in a special
part established. In Co-operative Land Mortgage Bank
Act section 52 commences thus " In the
following sections unless there is anything
repugnant in the subject or Context "—
Thus the term 'Bank' or 'Central Bank' will
have the meanings in these definitions
only in the sections applicable to Co-operative
land mortgage banks. Be Commencing "In...
of section 52 is retained & other definitions

Serial No.

By mistake the words stems (1) & (2) of" have been omitted between "substituted for" and "Section 52" in the first line of clause 2 of Bill. These will be inserted.

(4) He further suggests that in clause 6 the words "of the Mysore Co-operative Societies Regulation may be retained or else the words "under Section 4" be omitted. The words "under Section 4" have retained as it refers to the appointing power of J The other words are not necessary, as the ref to a section is obviously to a Section of this Regulation.

Mr. Chengalaraya Reddi.

He has appended a note of explanat This will be appended to the report

Mr. D. H. Chandrasekhaiah

He states that reference may be made in report to the fact that he proposed that a portion of the agricultural produce should be exempt from attachment. as being belonging to

This was a small point. When it was pointed out that even under the C.P.C. Section 61 Go had not issued any notification granting partial exemption of agricultural produce from attachment Mr. D.H.C abandoned the point as admitted by him. No reference

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

Bill to amend the Co-operative Societies Regn

File No. 18 of 193 | General and Revenue Secretariat

to make in consequence the report.

Mr. K. T. Bhashyam Avergaru has agreed to the report except in respect of Sec 75 which he considers should be deleted as it is not to the ordinary rule of Hindu law. He has sent a note in regard to this point. This note will be appended to the report.

The report & the Bill as amended will be published appendix to the report the notes of Mr. Chentsalrayudu & Mr. K. T. Bhashyam Avergaru.

1st Member) 18/4/35

17/4

Report & Bill as amended may be sent to the Press & proofs obtained

19/4/35

copies may be sent to the Regr of Co-operative societies & the Press

18/4

22/4/35

Bill to amend the Co-operative Soc, 1918.

General and Revenue Secretariat. | File No. | of 193 . | [App. F. III-

Sent with proof of the S.C Report on the Bill as corrected

Dom 24/4

Sent to L.C for further a 6 May 35

The proof copy of the Report has been retained in this office for further action being taken and the file returned to the Prot:n Br:.

(Prot:n Br:. with the compts)

26/4/35

From

the Regr of Cooperative Socie D.O. letter no 1044 dated 10.n 1 Stating that in appeal of the Submitted for kind perusal.

11/5/35

11/5/35

21/5/35

The following motions are sug On memorandum in the Agen for the ensuing meeting

(1) Motion that the Report o the S.C on the Bill and the as amended by them be take into consideration

(2) Motion that the Bill as amend be passed

Mover: The Hon'ble Member in Com Seconder: The Deputy Secretary to Govt. (Home Dept)

6/6/35

6/6

7/5

NOTE—Contn. Sheet.

OFFICE OF THE FIRST MEMBER, EXECUTIVE COUNCIL 7 JUNE 1935 No. 8830

3(21) Bill to amend the Co-operative Societies Regn

General and Revenue Secretariat

File No. 18 of 1935

To

The L.C. Office for Hindu note

Form 7/6 note

Noted and put up

Protn. Br. with compts)

10/6/35

Mr. Hayavadana Rao, Dr. T. Prakasam, Rajagopalachariar & V. Venkatappiah have given notice of certain amendments to the Bill as amended by the S.C.

A copy of the Bill in which the position of the amendments are indicated is herewith put up. The movers explain the purpose of the said amendments in a note vide flag Z

Sent for orders

Form 11/6

Messrs Hayavadanarao & Thos have given notice of 2 amendments to the Bill as amended by the SC

1) It is suggested that the word "primarily" may be added after the word "formed" in the last line of cl 2(1). The same objection applies to this as to M. K.R. Srinivasa Iyengar's amdt as explained on page 23. The definition

General and Revenue Secretariat.

File No. 16 of 1935

[App. F. III-2

of "Cooperative land mortgage bank" which
both a "Central Bank" and a "primary bank
The latter two have "primary" objects, whi
The former has both objects. It cannot t
therefore said that a 'Cooperative land mort
bank' is formed primarily for the purpo
of financing a society. The idea wa
to insert the definition as it stood in the
amending Regulation of 1933 which does not
contain the word "primarily".

(2) The suggestion is that the spec
provisions under clauses 66, 67 & 68 i.e
distraint and sale of produce for rec
of instalments etc may be made applic
to the loans advanced by any Cooper
Society. This goes against the principl
of the Bill. The object was to provide fo
to land mortgage banks to recover instal
by certain processes without calling fo
fresh amount due under present c
59. These provisions go into the
Special part of the Regulation relate
to land mortgage banks.

Land mortgage banks are empo
to issue debentures & the Govt has control
them. The special facilities allowed
such banks cannot be made applica
to ordinary Cooperative societies over
which the control of Govt is very less

NOTE—Contn. Sheet.

Bill to amend the Cooperative Societies Regulation
32 of
6383

File No. 16 of 1935

General and Revenue Secretariat

This amendment may be opposed.

1st Member, 6/8/35

At the sitting of the Legislative Council on 7.35, the amendments of Mr. C. Hayavadana Rao, that the word 'primarily' be inserted between the words 'or formed' and 'for the purpose of financing such society' in clause 2(1) of the Bill was accepted by the Govt. & the Sitting one was disallowed. The bill was finally passed as amended

Sd. with a D.T.N.

Done
5/8/35

1st Member 6
7-V- Signed by Member 6/7/35
6
Cl. 6/7
6/7

S. N. put up.

OFFICE OF THE FIRST MEMBER OF COUNCIL
6 JULY 1935
No. 1576

DEWAN'S OFFICE
8 JULY 1935
No. 64

1 Ce. 6-7

DEWAN

Final Note by the First Member of Council.

Subject:—

Bill further to amend the Mysore Co-operative Societies gulation, 1918.

Gracious approval of His Highness was accorded in Octobe 1934 to place before the Representative Assembly the statement general principles of a bill to amend the Mysore Co-operative S cieties Regulation, 1918, on the lines of the Madras Co-operati Land Mortgage Banks Act, 1934.

The general principles of the bill were adopted by the R presentative Assembly in October 1934 and the bill itself was, after previous publication, introduced in the Legislative Counc in December 1934 and referred to a Select Committee. The Selec Committee submitted their report in April 1935 and the bill as amended by them was considered at a meeting of the Legislative Council held on the 1st July 1935 and finally passed.

I now solicit gracious sanction of His Highness for prom gating the said bill as law.

Bangalore,
6th July 1935.

MEMBER OF COUNCIL.

54

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council* re: Bill further to amend the Mysore Co-operative Societies Regulation, 1918,

for His Highness' gracious approval.

Mirza M. Ismail
Dewan.
8-7-35

Submitted & approved
His Highness.
MI
9-7-35

C. Seay)

9.7

6383

31-12.

General and Revenue
Secretariat

SUBJECT:- Re: bill further a
amend the Mysore Co
Operative Societies Regu
lation, 1900.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders.* (*Vide Rules* 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

2404
9/9

FIRST MEMBER OF COUNCIL. 9/7

226
9.7.

SECOND MEMBER OF COUNCIL.

9/7

U.S.
9.7
9/7

NOTE.—Contn. sheet.

Reg^n No 1 of 1935

A Regulation further to amend the Mysore Co-operative Societies Act

36

General and Revenue Secretariat. Dept. File No. 18 of 193 .S [App. F. III

Send copies of Govt order ordering the publication of the Regn

11/7 Pvt Secy

11/7

Govt No P 310 / Legis 35 12/15-7-35

re am[illegible]

Conveys the publication of the Reg^n as Reg^n No 1 of 1935

Proofs of Reg^n received is herewith duly corrected with print order thereon

Done 18/7

18/7

1897

I.O.P. 4.66 19/7/35

Passed

Printed copies are placed in file. The file will be sent to Secy for information & after return recorded in

Done 9/8

9/8

Noted and returned

Pvt Secy with compts

KB

Printed copies placed in file

Draft forwarding copies to Secy has been submitted separately

D/6/8

SEC. DEPT. OF SECRETARIATE DEVELOPMENT BRANCH.

NOTE—Contn. Sheet.

of 193

General and Revenue
Secretariat

STATEMENT OF GENERAL PRINCIPLES

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Special provisions relating to Co-operative Land Mortgage Banks were added by Regulation V of 1929 to the Mysore Co-operative Societies Regulation, 1918.

The working of the Banks during the last four years have disclosed that the existing provisions are inadequate for the successful working of the mortgage banks. The question of adequate powers for the speedy recovery of arrears from defaulters is of fundamental importance. The Mysore Co-operative Land Mortgage Bank, Bangalore, has urged the desirability of adding to the existing provisions in the Co-operative Societies Regulation certain provisions introduced in Madras by the Land Mortgage Banks Act, X of 1934, relating to the powers and the administration of the Banks.

The main changes proposed to be introduced are as follows:-

1. In case of default in payment of instalments due, the Registrar will be empowered on the application of the Mortgage Bank to distrain the produce of the mortgaged land including the standing crops thereon under appropriate safeguards and to bring them to sale.

2. Where the mortgaged property is wholly or partially destroyed or the securi is rendered insufficient, the Bank will hav the right to demand further security or to proceed to distrain & sell the produce of the mortgaged land.

3. Where a primary bank fails to take action against a defaulter, the Board of the Central Mortgage Bank or the Registrar may take the necessary action.

4. It is considered desirable to prevent the mortgagor from leasing the mortgaged property for a period longer than 5 years.

5. Provision is made for safeguarding the interests of mortgage banks by preventing mortgages executed in favour of the Bank from being called into question in insolvency proceedings and by securing priority to a mortgage debt in favour of a mortgage bank over any claim of the Government arising from a loan under the Land Improvement Loans Regulation granted after the execution of the mortgage.

6. The Mortgage Bank will be given the right to require a prior creditor of the mortgagor to receive payment, and in case of refusal interest will have to run.

7. Registration of documents executed on behalf of a mortgage bank will be permitted without the appearance in person before the Sub Registrar of an officer of the Bank.

8. The burden of proving that a mortgage executed by the manager of a joint Hindu family is not binding on the members thereof shall lie on the party raising it.

9. Sections 52, 53 and 54 of the Mysore Co-operative Societies Regulation, as they now stand, make it obligatory on the part of Government to sanction the bye-laws of primary land mortgage societies and the amendments that may be passed from time to time. It is proposed to make this requirement of Government sanction applicable only

only to the Central Land Mortgage Banks.

The Bill is intended to give effect to these changes.

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A BILL FURTHER TO AMEND THE MYSORE CO-OPERATIVE SOCIETIES REGULATION VIII of 191

****

Preamble. Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation, VII of 1918: It is hereby enacted as follows:-

Short title. 1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation 193

2. The following shall be substituted fo Section 52:

(i) Co-operative Land Mortgage Bank means a Co-operative Society formed primarily for granting loans on the mortgage of agricultural land for the liquidation of prior debts of agriculturists or for the improvement of better cultivation of agricultural land.

(ii) Central Co-operative Land Mortgage Bank means a Co-operative Land Mortgage Bank which has among its objects the financing of Co-operative Land Mortgage Banks.

(iii) Primary Land Mortgage Bank or Societ shall mean a Co-operative Land Mortgage Bank affiliated to the Central Co-operative Land Mortgage Bank.

(iv) "Board" means in relation to a Bank, the Committee of the Central Land Mortgage Bank which has financed such Bank.

(v) "Trustee". (Same as the existing 52(2

3. In Section 53 the word "Central" shal be inserted between the words "The first byela

of a" and "Co-operative Land Mortgage Bank".

4. In the first line of Section 54, the words "Central Co-operative Land Mortgage" shall be inserted between the words "when the interest of any loan raised by the" and "Bank".

Addition of new Sections 66 to 80.

5. The following shall be inserted as sections 66 to 80 renumbering the existing sections 66 and 67 as sections 81 and 82, respectively.

Distraint and sale of produce when to be made.

"66. (1).(i) If any instalment payable under a mortgage executed in favour of a bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee of the bank may, in addition to any other remedy available to the bank, apply to the Registrar or to any person appointed by the Government under section 4 of the Mysore Co-operative Societies' Regulation, of 1918, to assist the Registrar, for the recovery of such instalment or part by

by distraint and sale of the produce o the mortgaged land including the stand crops thereon. On receipt of such app cation, the Registrar or such person m notwithstanding anything contained in other law for the time being in force, take such action as is necessary to di train and sell such produce;

Provided that no distraint shall made after the expiry of twelve months from the date on which the instalment due.

(ii) The distress shall not be excessive; the value of the property distrained shall b as nearly as possible, equa to the amount due and the expenses of the distraint a the costs of the sale.

(2) (i). Before or at the time when distraint is made under sub-section (1 ~~supra~~, the distrainer shall serve or cause to be served upon the defaulter written demand specifying the amount f which the distraint is made.

Distraint how to be effected.

(ii) The demand shall be dated a signed by the distrainer and shall be ed upon the defaulter by delivering a to him or to some adult male member of family at his usual place of abode or his authorized agent, or when such ser cannot be effected, by affixing a copy the demand on some conspicuous part of

his abode and of his land.

Sale of property distrained.

(3) (i) If, within fifteen days from the date of service of the deme referred to in sub-section (2) ~~above~~, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction th distrained property or such part ther of as may in his opinion be necessary ~~necessary~~ to satisfy the demand toge with the expenses of the distraint ar the costs of the sale.

~~(3)~~ (ii) From the proceeds of suc sale, a deduction shall be made at a rate not exceeding one anna in the ~~rup~~ on account of the costs of the sale.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint

(iv) The remainder, if any, sh be applied to the discharge of the --- amount for which the distraint was ma

(v) The surplus, if any, sha be delivered to the person whose prop has been sold and he shall be given a receipt for the amount discharged fro the proceeds of the sale.

(4.) The Government may m[illegible]

Power of Government to make Rules.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section."

Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient, ~~or default is made in the payment of any instalment.~~

6] ~~7~~. Where any property mortgaged to a mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the mortgage bank, of providing further security enough to render the whole security sufficient or repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor [~~under section 8 or section 13~~ 1] for the recovery thereof.

Explanation.-- A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the by-laws of the mortgage bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

68 ~~79~~. (1) The Board or the Registrar may direct the committee of a bank to take action against a defaulter under section 60, or section 66 ~~or section 67~~, as the case may be, or section ~~67~~ 67B and if

if the Committee neglects or fails to do the Board or the Registrar may take such action.

(2) (a) Where such action is taken b the Board, the provisions of this Regula and of any rules or regulations made the under shall apply in respect thereto as all references to the bank and to its co mittee in the said provisions were refer ces to the Central Land Mortgage Bank ar the Board respectively.

(b) Where such action is taken b the Registrar the provisions of this Reg lation and of any rules or regulations m thereunder shall apply in respect theret as if all references to the bank or to i committee in the said provisions were re ferences to the Registrar.

lease.

69 78. Notwithstanding anything conta in the Transfer of property Regulation, 191 duration of any lease executed by a mort gagor of property mortgaged to a bank af the execution of the mortgage shall in n case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

70 79. Notwithstanding anything conta in the ~~Law relating to insolvency for th time being in force~~ Myore Insolvency Regulation 1925, a mortgage executed in favour of a bank shall not be called question on the ground that it was not

not executed in good faith for valuable consideration or on the ground that it was executed in order to give the bank a preference over the other creditors o the mortgagor.

Priority of mortgage over claims arising under the Land Improvement, Regulation and the Mysore Land Revenue Code.

71 80. A mortgage executed in favour of a bank after the commencement of thi Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Regulation, 1890, or Section 194 of the Mysore Land Revenue Code, 1888, granted after the executi of the mortgage.

Right or Bank to pay prior debts of mortgagor.

72 84. Where a mortgage is executed in favour of a bank for payment of prio debts of the mortgagor, the bank may, notwithstanding the provisions of ~~any other law for the time being in force~~ Section 56 of the Transfer of Property Regulation, 1918, by notice in writing, require any perso to whom any such debt is due to receive payment of such debt or part thereof fr the bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof as the case may be, shall cease to carry interest from the expiration of the next period specified in the notice :

Provided that where there is a dispu as regards the amount of any such debt; t person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, bu such receipt shall not prejudice the rig if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Land Mortgage Bank.

73 82. (1) Notwithstanding anything con tained in the ~~law of~~ by-rule Registration ~~for th time being in force~~ Regulation, it shall not be nec sary for any Director, Secretary or othe officer of a bank or of the Central Land Mortgage Bank to appear in person or by agent at any registration office in any proceeding connected with the registrati of any instrument executed by him in his official capacity or to sign as provided ~~such law~~. Section 58 of Land Regulation

(2) Where any instrument is so execu the registering officer to whom such in- strument is presented for registration m if he thinks fit, refer to such Director Secretary or officer for information res pecting the same, and on being satisfie the execution thereof, shall register th instrument.

Power of a bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Land mortgage Bank.

74 83. Notwithstanding the transfer of mortgage by a bank to the Central Land Mortgage Bank -

(a) all moneys due under the mo shall, in the absence of any specifi direction to the contrary issued by Board or Registrar and communicated

the mortgagor, be payable to the bank an such payment shall be as valid as if the mortgage had not been so transferred; an

(b) the bank shall, in the absence any specific direction to the contrary issued by the Board or Registrar and com nicated to the bank be entitled to sue o the mortgage or take any other proceedin for the recovery of the moneys due under mortgage.

Special provision for mortgages executed by Managers of joint Hindu Families.

75 ~~86~~. (1) Where a mortgage executed i favour of a bank either before or after passing of this Regulation is called in question on the ground that it was execu by the manager of a joint Hindu family f a purpose not binding on the members the whether major or minor, the burden of pr ~~vidng~~ving the same shall, notwithstanding law to the contrary, lie on the party raising it.

(2) For the purpose of this secti the following shall not be regarded as ~~xx~~ purposes not binding on a member of the joint Hindu family, namely:-

(a) the improvement of agricultura land or of the methods of cultivation; an

(b) the purchase of land.

Sections ~~59 and~~ 66 to apply to loans advanced by banks from funds not borrowed from the Central Land Mortgage Bank.

76 ~~87~~ The provisions of sections 66 ~~a~~ ~~68~~ shall apply also to the loans advanced banks from funds which have not been bor from the Central Land Mortgage Bank.

Service of notices under these sections.

77 88. Whenever under the provisions of sections 66 ~~to 91~~, notice is required to be given to any person in writing, it shall be sufficient to send such notice registered post.

The Transfer of Property Regulation to apply to such notices.

78 89. The provisions of sections 102 103, of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation, for carrying out the purposes of th said section, shall appply, so far as may be, in respect of all notices to be serve under sections ~~to~~ 66 ~~to 91~~.

Officers of banks and of the Central Land Mortgage Bank and sale officers not to bid at sales.

79 90. At any sale of movable ~~or immovable~~ property held under the provisions of sections 66 ~~to 91~~ in order to recover any money due to a bank, no Director, Secretary or other officer of such bank or of the Central Land Mortgage Ban (except on behalf of the bank of which he a Director or Secretary or an officer) a ~~no sale officers~~ or other person having a duty to perform in connection with such sale, shall either directly or indirectl bid for or acquire or attempt to acquire any interest in such property.

So 91. The Board may, if it thinks fit, delegate all or any of its powers

powers under sections 66, ~~68~~ and 79 to an executive committee constitut by it and consisting of two or more of its members.

Ce
4/5/78

K.M.R. 3.

Explanatory Note on the proposed Amendments. 3

I Amendment.

In clause 2 (2) ofthe Bill a Central Co-operative Land Mortgage Bank is defined as a "Bank which has for its primary obje the financing of Co-operative Land Mortgage Banks".

The amendment is intended to bring the definition of a Central Bank in the first Sub-Clause into harmony with the definition of the same in the second sub-clause, and to cover the secondary functions of a Central Bank such as lending to individual shareholders etc.

II Amendment.

A very large number of co-operative societies in the State are in debt in land mortgage credit. The recovery of mortgage debts has not only been found to be very difficult, but the strict enforcement of the terms of the mortgage deeds in the case of default appears to weigh oppressively upon the debtors. In the interests of both the societies and their borrowing members, it is desirable that theprovisions of Sections 66, 67 and 68 should be made applicable as far as possible to the loans advanced by ordinary Co-operative Societies. The Government owe a duty not only to the holders of the Land Mortgage Bank debentures but also to the large body of investors who have invested heavy sums of money in the shape of deposits in the Co-operative Societies on the definite belief that the societies are under the protection and care of the Government. The Government should also avoid the suspicion that these provisions have been made applicable to land mortgage banks only because they happen to be the biggest debenture holders.

At the last session of the Representative Assembly held in October 1934, the First Member of Council said that Government would certainly consider the question of applying these provisior to other Co-operative Societies rendering aid to agriculturists.

At a meeting of the representatives of the Apex Bank nd the Central Bank held by the Registrar in his office this his question was again raised and the Registrar promised sympathetic consideration.

The amendment gives the Government a discretionary power to apply the provisions of Sections 66, 67 and 68 to such societies nd with such modifications as they think necessary. This will be a afeguard against abuse of the new provisions under consideration

804 934

BANGALORE CITY

DATED 23·7 1934

WHILE REPLYING PLEASE REFER TO
NO. S.I. 35

From

Rajasabhabhushana K. R. SRINIVASIENGAR, Esq., M.A.,
President, The Mysore Co-operative Land Mortgage Bank, Ltd.,
BANGALORE CITY.

To

THE REGISTRAR
of Co-operative Societies in Mysore,
BANGALORE.

Sir,

Adverting to correspondence ending with this office letter No: S.I. 376 dated 29th ultimo on the subject of amending the Co-operative Societies' Regulation so as to provide for recovery of individual instalments of loans due to the Bank from its borrowers, I have the honour to state that in the Madras Co-operative Land Mortgage Banks Act recently passed by the Madras Government, special provision has been made not only for the recovery of individual instalments from the borrowers, by proceeding against the crops b also for enabling the primary Land Mortgage Societies or th Bank to bring the mortgaged properties to sale without the intervention of the Court where such power is expressly con ferred on the society by the mortgage deed. The Act conta also several other matters which are not provided for in ou Regulation and which are well worth being adopted by us als to expedite the disposal of loan cases and to facilitate th smooth working of the Land Mortgage scheme. A statement showing the sections of the Madras Act and the modification suggested thereon to answer our requirements is herewith attached. I request that Government may be kindly moved take the necessary action to amend our Co-operative Societ Regulation as indicated in the statement on the lines of th Madras

the Madras Act.

have the honour to be,
S i r,
Your most obedient servant,

PRESIDENT.

Sections of the Madras Act.

Amendments and additions proposed to be made in the Mysore Co-operative Societies' Regulation.

I

9. (1) If any instalment payable under a mortgage executed in favour of a mortgage bank or any part of such instalment has

DISTRAINT WHEN TO BE MADE.

remained unpaid for more than one month from the date on which it fell due, the committee may in addition to any other remedy available to the bank, apply to the Registrar or to any person appointed by the local Government under section 3 of the Madras Co-operative Societies Act, 1932, to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act, 1882, take such action as is necessary to distrain and sell such produce;

provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(2) The distress shall not be excessive; the value of the property

I. Insert the following as 59 (A), renumbering the existing bye-law as 59 (B), and inserting the word also a 'recall' and before 'a loan' in the latter.—

59. (A). (1). (i) If any instalment payable under a mortgage executed in favour of a bank or any part of such instalment has remained unpaid for more than one month fr

DISTRAINT AND SALE OF PRODUCE WHEN TO BE MADE

the date on which it fell d the committee of the bank m in addition to any other remedy available to the bank, a to the Registrar or to any person appointed by the Govern under section 4 of the Mysore Co-operative Societies' Reg lation of 1918 to assist the Registrar, for the recovery such instalment or part by distraint and sale of the prod of the mortgaged land including the standing crops thereo On receipt of such application, the Registrar or such per may, notwithstanding anything contained in any other law the time being in force, take such action as is necessary distrain and sell such produce:

provided that no distraint shall be made after the e of twelve months from the date on which the instalment fe due.

(ii) The distress shall not be exce

property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

10. (1) Before or at the time when a distraint is made under section 9, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

DISTRAINT HOW TO BE EFFECTED.

(2) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of ~~xhx~~ his family at his usual place of abode or to his authorized agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

11. (1) If, within fifteen days from the date of service of the demandreferred to in section 10, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the

~~XXX~~ SALE OF PROPERTY DISTRAINED.

the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

(2) (i). Before or at the time when a distraint is made under sub-section (1) supra, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

DISTRAINT HOW TO BE EFFECTED.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorized agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2) supra, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof may in his opinion be necessary to satisfy the

SALE OF PROPERTY DISTRAINED.

of the distraint and the costs of the sale.

11. (2) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one anna in the Rupee on account of the costs of the sale.

(3) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(4) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(5) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

12. The local Government may make rules not inconsistent with this Chapter -

POWER OF LOCAL GOVERNMENT TO ~~XXXX~~ MAKE RULES.

(i) for the manner of effecting distraint

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of

of the distraint and the costs of the sale.

3. (ii) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one anna in the Rupee on account of the costs of the sale.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

4. The Government may make rules -

POWER OF GOVERNMENT TO MAKE RULES.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying

5.9

purpose of carrying out the provisions of this Chapter.

13. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or in the Trustees' and Mortgagees' powers Act, 1866, where a power of sale without the intervention of the Court is expressly conferred on the mortgage bank by the mortgage deed, the committee of such bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the Court.

POWERS OF SALE WHEN TO BE EXERCISED.

(2) No such power shall be exercised unless and until -

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1) after hearing the objections, if any, of the mortgagor or mortgagors;

(b) notice in writing requiring payment of such mortgage money or part has been served upon -

(i) the mortgagor or each of the mortgagors;

(ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

carrying out the provisions of this section.

II. Insert the following sections as 66 to 89 ~~re-numbering the present 66 as 90~~;-

66. (1) Notwithstanding anything contained in any law for the time being in force, where a power of sale without the intervention of the Court is expressly conferred on the bank by the mortgage deed, the committee of such bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the Court.

POWERS OF SALE WHEN TO BE EXERCISED.

(2) No such power shall be exercised unless and until -

(a) The Board has previously authorized the exercise of the power conferred by sub-section (1) after hearing the objections, if any, of the mortgagor or mortgagors;

(b) notice in writing requiring payment of such mortgage money or part has been served upon -

(i) the mortgagor or each of the mortgagors;

(ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part for three months after such service.

14. (1) In exercise of the power of sale conferred by section 13, the committee of a mortgage bank or any person duly authorized by such committee, may apply to the sale officer appointed in that behalf under section 22 to sell the mortgaged property or any part thereof and such officer shall, after giving notice in writing to all the persons referred to in section 13 sell such property in the manner prescribed.

APPLICATION FOR SALE AND MANNER OF SALE.

(2) The sale shall be by public auction and shall be held in the village where the mortgaged property is situated or at the nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there.

15. (1) When a mortgaged property has been sold under this Chapter, the mortgagor or any person having a right or interest therein affected by the sale, may, at any time

APPLICATION TO SET ASIDE SALE ON DEPOSIT AND CONFIRMATION OF SALE IN DEFAULT OR ON DISMISSAL SUCH APPLI-

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part for three months after such service.

67. (1) In exercise of the power of sale conferred by section 66, the committee of a bank or any person duly authorized by such committee may apply to the sale officer appointed in thatbehalf under section 75 to sell the mortgaged property or any part thereof and such officer shall, after giving notice in writing to all the persons referred to in section 66 sell such property in the manner prescribed.

APPLICATION FOR SALE AND MANNER OF SALE.

(2) The sale shall be by public auction and shall be held in the village where the mortgaged property is situated or at the nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there.

68. (1) When a mortgaged property has been sold under section 66, the mortgagor or any person having a right or interest therein affected by

APPLICATION TO SET ASIDE SALE ON DEPOSIT AND CONFIRMATION OF SALE IN DEFAULT OR ON DISMISSAL SUCH APPLI-

thirty days from the date of sale, apply to the committee of the mortgage bank concerned to have the sale set aside on his depositing at the office of such bank -

(a) for payment to the bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and

(b) for payment to the purchaser, a sum equal to five per cent of the purchase money.

(2) If such deposit is made, the committee shall make an order setting aside the sale.

(3) Where no application is made under sub-section (1) or where such application is made and disallowed, the committee shall apply to the principal officer of the co-operative department in the district, to make an order confirming the sale and on such officer confirming the sale, it shall become absolute.

16. (1) The proceeds of every sale under this Chapter shall be applied by the sale officer, first in payment of all

DISTRIBUTION OF THE PROCEEDS costs, charges and expenses

thirty days from the date of sale, apply to the committee of the bank concerned to have the sale set aside on his depositing at the office of such bank -

(a) for payment to the bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and

(b) for payment to the purchaser, a sum equal to five per cent of the purchase money.

(2) If such deposit is made, the committee shall make an order setting aside the sale.

(3) Where no application is made under sub-section (1) or where such application is made and disallowed, the committee shall apply to the principal officer of the co-operative department in the district, to make an order confirming the sale, and on such officer confirming the sale, it shall become absolute.

69. (1) The proceeds of every sale under section 66 shall be applied by the sale officer, first in payment of all

DISTRIBUTION OF THE PROCEEDS OF SALE. costs, charges and expenses

incurred by him as ~~xxxxxxxx~~ incident to the sale or any attempted sale; secondly, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; thirdly, in payment of the principal money due on account of the mortgage; and lastly, the residue, if any, shall be paid to the person proving himself interested in the property sold or if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint ~~receipt.~~ receipt.

(2) (a) Any person dissatisfied with the decision of the sale officer in regard to the distribution of such residue, may, within thirty days of the communication to him of such decision, institute a suit in a Court to establish the right he claims.

(b) The sale officer shall not distribute such residue until thirty days have elapsed from the communication of his decision to all the persons concerned or, if a suit has been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the Court therein.

(Explanation:- In this sub-section 'Court' means the Civil Court which

incurred by him as incident to the sale or any attempted sale; secondly, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; thirdly, in payment of the principal money due on account of the mortgage; and lastly, the residue, if any, shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

(2) (a) Any person dissatisfied with the decision o the sale officer in regard to the distribution of such residu may, within thirty days of the communication to him of such decision, institute a suit in a Court to establish the right he claims.

(b) The sale officer shall not distribute such residue until thirty days have elapsed from the communication of his decision to all the persons concerned or, if a suit ha been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the Court therein.

(Explanation:- In this sub-section 'Court' means the Civ

which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property sold is situated.)

17. Where a sale of mortgaged property has become absolute, the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be the purchaser. Such certificate shall bear date, the day on which the sale became absolute.

CERTIFICATE TO PURCHASER.

18. (1) Where the mortgaged property sold is in the occupancy of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the mortgagee bank and a certificate in respect thereof has been granted under section 17, the Court shall, on the application of the purchaser order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

DELIVERY OF PROPERTY TO PURCHASER.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a

which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property sold is situated.)

70. Where a sale of mortgaged property has become absolute the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be the purchaser. Such certificate shall bear date, the day on which the sale became absolute.

CERTIFICATE TO PURCHASER.

71. (1) Where the mortgaged property sold is in the occupancy of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the bank and a certificate in respect thereof has been granted under section 70, the Court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

DELIVERY OF PROPERTY TO PURCHASER.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a

certificate in respect thereof has been granted under section 17, the Court shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been trans-ferred to the purchaser.

(3) In regard to the cases dealt with in sub-sections (1) and (2) the provisions of Rules 97 to 103 of Order XXI of the first schedule to the Code of Civil Procedure, 1908, shall mutatis mutandis and so far as may be, apply.

(Explanation:- In this Section, 'Court' shall have the same meaning as in section 16).

19. It shall be competent to a mortgage bank or the Central Mortgage Bank to purchase the mortgaged property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

RIGHT OF MORTGAGE BANK OR OF THE CENTRAL MORTGAGE BANK TO PURCHASE THE MORTGAGED PROPERTY AT SALE.

20. (1) The Board may, on the application of a mortgage

certificate in respect thereof has been granted under section 70, the Court shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been trans-ferred to the purchaser.

(3) In regard to the cases dealt with in sub-sections (1) and (2), the provisions of the Rules of the first schedule to the Code of Civil Procedure, shall mutatis mutandis and so far as may be, apply.

(Explanation:- In this section, 'Court' shall have the same meaning as in section 69).

72. It shall be competent to a bank or the Central Land Mortgage Bank to purchase the mortgaged property sold under section 66, but the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Registrar.

RIGHT OF BANK OR OF THE CENTRAL LAND MORTGAGE BANK TO PURCHASE THE MORTGAGED PROPERTY AT SALE.

73. (1) The Board may, un

bank and under circumstances in which the power of sale conferred by section 13 may be exercised, appoint in writing a ~~xxx~~ -

APPOINTMENT OF RECEIVER AND HIS POWERS.

receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income as the case may be, to retain out of any money realized by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69 A of the Transfer of Property Act, 1882.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this~~x~~ section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Civil Court.

21. When a sale has been made in professed exercise of a power of sale under section 13 and has been confirmed under section 15,

power of sale conferred by section ~~66~~ 66 may be exercised, appoint in writing a receiver of the produce and income of

APPOINTMENT OF RECEIVER AND HIS POWERS.

the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realized by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of the Transfer~~x~~ of Property Regulation.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application ~~xxx~~ made by the mortgagor be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Civil Court.

74. When a sale has been made in professed exercise of a power of sale under section 66 and has been confirmed under

section 15, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the mortgage bank.

TITLE OF PURCHASER NOT TO BE IMPEACHED ON THE GROUND OF IRREGULARITY ETC.

22. The Registrar may appoint sale officers for the purpose of conducting sales under this Chapter.

APPOINTMENT OF SALE OFFICER.

23. The Local Government may make rules not inconsistent with this Chapter:-

POWER OF LOCAL GOVERNMENT TO MAKE RULES.

(i) for the due proclamation and conduct of the sale;

(ii) for the recovery of the expenses of proclamation and sale;

(iii) for the deposit of the purchase money;

(iv) for the re-sale of the property, if the purchase money is not deposited; and

(v) generally for carrying out the provisions of this Chapter.

24. Where any property mortgaged to a mortgage bank is wholly

section 68, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the Bank.

TITLE OF PURCHASER NOT TO BE IMPEACHED ON THE GROUND OF IRREGULARITY ETC.

75. The Registrar may appoint sale officers for the purpose of conducting sales under section 66.

APPOINTMENT OF SALE OFFICER.

76. The Government may make rules not inconsistent with section 66;-

POWER OF GOVERNMENT TO MAKE RULES.

(i) for the due proclamation and conduct of the sale;

(ii) for the recovery of the expenses of proclamation and sale;

(iii) for the deposit of the purchase money;

(iv) for the re-sale of the property, if the purchase money is not deposited; and

(v) generally for carrying out the provisions of section 66.

77. When a loan issued by a Bank is recallable

or partially destroyed or the security is rendered insufficient and the mortgagor having been given a reasobable opportunity by the committee of the mortgage bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under section 9, or section 13 for the recovery thereof.

POWERS OF MORTGAGE BANK IN CASE THE MORTGAGED PROPERTY IS WHOLLY OR PARTIALLY DESTROYED OR THE SECURITY IF RENDERED INSUFFICIENT.

25. (1) The Board or the Trustee may direct the committee of a mortgage bank to take action against a defaulter under section 9, section 13, or section 24 and if the committee neglects or fails to do so, the Board or the Trustee may take such action.

POWER OF BOARD OR OF TRUSTEE TO DIRECT DISTRAINT AND SALE OF PRODUCE AND THE SALE OF MORTGAGED PROPERTY ETC.

(2) (a) Where such action is taken by the Board, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the mortgage bank and to its committee in the said provisions were under the provisions of section 59 B, (iii) or (vi), the committee shall be entitled to take action against the mortgagor under section 59 A or sections 60 or 66 for the recovery of the amount in respect of which additional security has not been furnished or the instalment is in default.

POWERS OF BANK IN CASE THE MORTGAGED PROPERTY IS WHOLLY OR PARTIALLY DESTROYED OR THE SECURITY IS RENDERED INSUFFICIENT, OR DEFAULT IS MADE IN THE PAYMENT OF ANY INSTALMENT.

78. (1) The Board or the Registrar may direct the committee of a bank to take action against a defaulter unde section 59 A, section 60 or 66 as the case may be or section 77 and if the committee negl or fails to do so, the Board or the Registrar may take suc action.

POWER OF BOARD OR OF REGISTRAR TO DIRECT DISTRAINT AND SALE OF PRODUCE AND THE SALE OF MORTGAGED PROPERTY ETC.

(2) (a) Where such action is taken by the Board, provisions of this Regulation and of any rules or regulati made thereunder shall apply in respect thereto as if all references to the bank and to its committee in the said

were references to the Central Mortgage Bank and the Board respectively.

(b) Where such action is taken by the Trustee the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the mortgage bank or to its committee in the said provisions were references to the Trustee.

MORTGAGOR'S POWER TO LEASE.

26. Notwithstanding anything contained in the Transfer of property Act, 1882, the duration of any lease executed by a mortgagor of property mortgaged to a mortgage bank after the execution of the mortgage shall in no case exceed five years.

MORTGAGE NOT TO BE QUESTIONED ON INSOLVENCY OF MORTGAGOR.

27. Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, a mortgage executed in favour of a mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the mortgage bank a preference over the other creditors of the mortgagor.

were references to the Central Land Mortgage Bank ar Board respectively.

(b) Where such action is taken by the Re the provisions of this Regulation and of any rules o regulations made thereunder shall apply in respect t as if all references to the bank or to its committee said provisions were references to the Registrar.

MORTGAGOR'S POWER TO LEASE.

78. Notwithstanding anything contained in the Tr of property Regulation, the duration of any lease exe by a mortgagor of pr mortgaged to a bank after the execution of the mortga shall in no case exceed five years.

MORTGAGE NOT TO BE QUESTIONED ON INSOLVENCY OF MORTGAGOR.

79. Notwithstanding anything contained in the La relating to insolvency for the time being in force, a gage executed in fa of a bank shall not called in question on the ground that it was not exec in good faith for valuable consideration or on the gr that it was executed in order to give the bank a pre over the other creditors of the mortgagor.

28. A mortgage executed in favour of a mortgage bank after the commencement of this Act shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883, granted after the execution of the mortgage.

PRIORITY OF MORTGAGE OVER CLAIMS ARISING UNDER THE LAND IMPROVEMENT LOANS ACT, 1883.

29. Where a mortgage is executed in favour of a mortgage bank for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank within the period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice ;

RIGHT OF MORTGAGE BANK TO PAY PRIOR DEBTS OF MORTGAGOR.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the mortgage bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

80. A mortgage executed in favour of a bank after the commencement of this Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Regulation or Section 194 of the Mysore Land Revenue Code, granted after the execution of the mortgage.

PRIORITY OF MORTGAGE OVER CLAIMS ARISING UNDER THE LAND IMPROVEMENT REGULATION.

81. Where a mortgage is executed in favour of a bank for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of any other law for the time being in force, by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice ;

RIGHT OF BANK TO PAY PRIOR DEBTS OF MORTGAGOR.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

30. (1) Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for any Director, Secretary or other officer of a mortgage bank or of the Central Mortgage Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

REGISTRATION OF DOCUMENTS EXECUTED ON BEHALF OF A MORTGAGE BANK OR OF THE CENTRAL MORTGAGE BANK.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

31. Notwithstanding the transfer of a mortgage by a mortgage bank to the Central Mortgage Bank -

POWER OF A MORTGAGE BANK TO RECEIVE MONEYS AND GRANT VALID DISCHARGES NOTWITHSTANDING ASSIGNMENT OF MORTGAGE DEEDS TO THE CENTRAL MORTGAGE BANK.

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee

82. (1) Notwithstanding anything contained in the law of Registration for the time being in force, it shall not be necessary for any Director, Secretary or other officer of a bank or of the Central Land Mortgage bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in such law.

REGISTRATION OF DOCUMENTS EXECUTED ON BEHALF OF A BANK OR OF THE CENTRAL LAND MORTGAGE BANK.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

83. Notwithstanding the transfer of a mortgage by a bank to the Central Land Mortgage Bank -

POWER OF A BANK TO RECEIVE MONEYS AND GRANT VALID DISCHARGES NOTWITHSTANDING ASSIGNMENT OF MORTGAGE DEEDS TO THE CENTRAL LAND MORTGAGE BANK.

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

O. No. *dated*

SUBJECT.

(1) May this be placed at the disposal of the Press:—

(2) May this be translated:—

(3) May this be treated as Standing Order:—

Trustee and communicated to the mortgagor, be payable to the mortgage bank and such payment shall be as valid as if the mortgage had not been so transferred and

(b) the mortgage bank shall in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgage bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

SPECIAL PROVISION FOR MORTGAGES EXECUTED BY MANAGERS OF JOINT HINDU FAMILIES.

32. (1) Where a mortgage executed in favour of a mortgage bank either before or after the passing of this Act is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the following shall not be regarded as purposes not binding on a member of the joint Hindu family, namely:-

(a) the improvement of agricultural land or of the methods of cultivation; and
(b) the purchase of land.

CHAPTERS III & IV TO APPLY TO LOANS ADVANCED BY MORTGAGE BANKS FROM FUNDS NOT BORROWED FROM THE CENTRAL MORTGAGE BANK.

33. The provisions of Chapters III and IV shall apply also to the loans advanced by mortgage banks

Registrar and communicated to the mortgagor, be payable to the bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(b) the mortgage bank shall in the absence of any specific direction to the contrary issued by the Board or Registrar and communicated to the bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

SPECIAL PROVISION FOR MORTGAGES EXECUTED BY MANAGERS OF JOINT HINDU FAMILIES.

84. (1) Where a mortgage executed in favour of a bank either before or after the passing of this Regulation is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as purposes not binding on a member of the joint Hindu family.

SECTIONS 59 and 66 TO APPLY TO LOANS ADVANCED BY BANKS FROM FUNDS NOT BORROWED FROM THE CENTRAL LAND MORTGAGE BANK.

85. The provisions of sections 59 and 66 shall apply also to the loans advanc

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. *dated*

SUBJECT.

(1) May this be placed at the disposal of the Press:—

(2) May this be translated:—

(3) May this be treated as Standing Order:-

banks from funds which have not been norrowed from the Central Mortgage Bank.

34. Whenever under the provisions of this Act, notice is required to be given to any person in writing, it shall be

SERVICE OF NOTICES UNDER THIS ACT.

sufficient to send such notice by registered post.

35. The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of any rules made by the High

SECTIONS 102, 103 and 104 of the TRANSFEROF PROPERTY ACT, 1882, TO APPLY TO SUCH NOTICES.

Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Act.

36. At any ~~xxx~~ sale of movable or immovable property held under the provisions of this Act in order to recover any

OFFICERS OF MORTGAGE BANKS AND OF THE CENTRAL MORTGAGE BANK AND SALE OFFICERS NOT TO BID AT SALES.

money due to a mortgage bank, no Director, Secretary or other officer of such bank or of the Central Mortgage Bank (except on behalf of the bank of which

banks from funds which have not been borrowed from the Central Land Mortgage Bank.

86. Whenever under the provisions of these sections, notic is ~~xxxxx~~ required to be given to any person in writing, it shal

SERVICE OF NOTICES UNDER THESE SECTIONS.

be sufficient to send such notice by registered post.

87. The provisions of the Transfer of Property Regulation and of any rules made by the High Court under that Regulation,

THE TRANSFER OF PROPERTY REGULATION TO APPLY TO SUCH NOTICES.

for carrying out the purposes of the said provisions, shall apply, so ~~xfxxx~~ far as may be, in respect of all notices to be served under these sections.

88. At any sale of movable or immovable property held unde the provisions of these sections in order to recover any money

OFFICERS OF BANKS AND OF THE CENTRAL LAND MORTGAGE BANK AND SALE OFFICERS NOT TO ~~XXXX~~ BID AT SALES.

due to a bank, no Director, Secretary ~~xf~~ or other officer of such bank or of the Central Land Mortgage Bank (except on behalf of the bank of which he is a Director

person having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

37. The Board may, if it thinks fit, delegate all or any of its powers under sections 13, 20 and 25 to an executive committee constituted by it and consisting of two or more of its members.

DELEGATION OF CERTAIN POWERS BY BOARD.

person having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

89. The Board may, if it thinks fit, delegate all or any of its powers under sections 66, 73 and 78 to an executive committee constituted by it and consisting of two or more of its members.

DELEGATION OF CERTAIN POWERS BY BOARD.

III. Re-number the present section 66 as 90, and No: 67 as 91.

Secretary,
MYSORE CO-OPERATIVE LAND MORTGAGE BANK LTD. BANGALORE.

T.V.L./20.7.1934.

74

GOVERNMENT OF MYSORE.

No 2765 C.S. / Enc: four.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Dated, Bangalore, 3rd October 1934

Telegraphic Address:
"CO-OPERT"
BANGALORE

GENERAL SECTARIAT

From C.I. 1934

GULAM MOHADIN MEHKRI, ESQ., B.A., LL.B.,
Registrar of Co-operative Societies in Mysore,
BANGALORE.

To

S. Abdul Wajid, Esq., B.A.,
General Secretary to the Government of Mysore,
Bangalore

Sir,

With reference to your letter No.P.1608/Legis. dated 28th Septem 1934, forwarding for my opinion the draft of a Bill to further amend Mysore Co-operative Societies Regulation, 1918, I have the honour to that subsequent to the receipt of letter No.S.I.35 dated 23rd July 1934 from the President of the Mysore Co-operative Land Mortgage Bank, Ltd., was decided at the meeting of the Board of Diretors of the Bank held on 5th August 1934, that the amendments proposed should be considered by a Committee consisting of the President and six members of the Board. T Committee, at which I was also present by invitation, met on 9th Septem 1934 and discussed the amendments. A copy of the proceedings of the me of this Committee together with a copy of letter No.S.I.116 dated 28th . September 1934 received from the President of the Bank is herewith encl for the information of Government.

I concur with the views of the Committee that there is no necessity present to invest the Land Mortgage Bank with the power of bringing the mortgaged properties to sale without the intervention of the Registrar c the Courts.

I have proposed some minor amendments to Sections 52, 53 and 54 as Sections, as they now stand, make it obligatory on the part of Government sanction the Byelaws of Primary Land Mortgage Societies and the amendmen thereto that may be passed from time to time. If the amendments are approved, Sections 53 and 54 will apply only to the Central Land Mortgag

Mortgage Bank.

The draft is, herewith, returned.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar. 2/6

L.S.2/10.

DEPARTMENT OF CO-OPERATION. 77

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE.

Letter No.S.I.116/Enc.one, dated 28th September 1934 from the President, The Mysore Co-operative Land Mortgage Bank,Ltd.,Bangalor to the Registrar of Co-operative Societies in Mysore, Bangalore.

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In continuation of my letter No.S.I.35 dated 23rd July 1934, ar with reference to resolution No.6 recorded at the meeting of the Bo of Directors of this Bank held on the 5th August 1934 (copy of the ceedings of which has been forwarded to you with the Bank's letter S.I.63 dated 17th August 1934) in the matter of amending the Mysore operative Societies' Regulation so as to provide for the recovery o individual instalments of loans and certain other matters on the li of the recent Madras Land Mortgage Banks' Act, I have the honour to forward,herewith, a copy of the proceedings of the Special Committe appointed by the Board to consider the amendments suggested by me. Leaving out matters of detail and a few minor changes in adjectival the main principles of the amendments proposed by me in my letter o 23rd July above reffered to are:

(1) Where default is made by an indebted member of the Bank in payment of any annual instalment due from him, provision is propose be made for the recovery of such instalment alone by proceeding ag the crops on the lands mortgaged to the Bank instead of the Bank be obliged, in every case, to adopt the drastic step of recalling the entire loan and bringing the mortgaged properties to sale.

(2) The Land Mortgage Banks are proposed to be empowered to bri the mortgaged properties to sale of their own accord and without th intervention of the Registrar, in cases wherein such power is confe on the Bank under the terms of the mortgage deed.

and(3) Where any creditor to whom notice is issued by a Land Mort Bank to receive payment of the amount due to him by any member of t Bank to whom a loan is sanctioned fails to comply with the notice, is proposed that he should not be entitled to any interest on such amount from the date of the expiry of the period prescribed in the notice.

2. The Special Committee of the Board appointed to consider the above amendments has approved of all of these excepting item (2) noted above. As regards item (2), the Committee has been of opinion that this amendment is not necessary for the reasons given in the enclosed copy of the proceedings of the meeting. If the Committee's opinion is adopted, the draft Bill already sent up will have to be suitably revised accordingly. I may, however, state that in my opinion there can be no harm in or objection to our adopting the Madras procedure which was passed by the Legislative Council there after a full consideration of the pros and cons.

3. In view of the very great difficulty that is now being experienced in the smooth and satisfactory working of the Land Mortgage Scheme, owing to the absence of any provision in our existing Regulation in respect of particularly items (1) and (3) mentioned above. I request that you will be so good as to move Government to take very early action for the amendment of the Regulation on the lines proposed above by placing the principles of the proposed Bill before the ensuing session of the Representative Assembly next month, so that the Bill may be introduced before the Legislative Council at its next session. -- After the main principles of the proposed Bill are approved, the draft Bill may be taken up in detail for consideration.

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" Copy "

DEPARTMENT OF CO-OPERATION. 79

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Proceedings of the meeting of the Committee appointed by the B of Directors of the Mysore Co-operative Land Mortgage Bank, Bangalo to consider the amendments proposed to be made in the Mysore Co-ope Societies' Regulation so as to incorporate in it some of the provis contained in the Madras Land Mortgage Banks' Act, held at 8 A.M. on Sunday the 9th September 1934.

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Present:-

Rajasabhabhushana
Mr.K.R.Srinivasa Iyengar,M.A., President.

1. " S.Venkatakrishnaiya,B.A.,B.L.,

2. " B.Kempanna,B.A.,B.L.,

3. " K.Krishna Rao,B.A.,LL.B.,

4. " T.G.Narayana Aiyangar, B.A.,B.L.,

5. " B.Ramaswamayya,B.A.,LL.B.,

Mr.M.G.Mehkri,B.A.,LL.B., Registrar of Co-operative Societ in Mysore was also present.

The President stated that the Revenue Commissioner had persona expressed to him his inability to attend the meeting owing to press of other work.

2. The principles of the proposed amendments were taken up for consideration. With regard to the provision proposed to be made fo empowering the Land Mortgage Banks to themselves bring the mortgage properties to sale without resort to the Registrar or the Court in in which the mortgage deeds specifically provided therefor, it was solved that as the main cause of delay at present in proceeding age properties was due, not so much to the time taken in the disposal o cases by the Registrar, as to that taken in the execution of his or by the Revenue Department, it will be sufficient if the Registrar b empowered to have the sales of the properties conducted by persons appointed by himself instead of through the Revenue Department and if this procedure be adopted, it would not be necessary and would n be of any particular advantage to dispense with the existing proced for the filing of applications to the Registrar for recovery of the Bank's dues from its members.

P.T.C.

3. The question was next considered whether it desirable to leave undisturbed the procedure now p matter of the grant of possession of lands through Commissioner even in cases of sales of lands effec orders of the Registrar, but after some discussion that it is desirable to provide for the grant of p the Civil Court as in Madras, in such cases.

4. The principles of the other amendments pro President in the draft forwarded by him to the Registrar were generally approved.

Sd.-. K.R.Srinivasiengar,
President

****

" Copy "

L.S.2/10. Registrar.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE.

Amendments proposed by the Registrar of Co-operative Societies.

The following shall be substituted for Section 52:-

(1) Co-operative Land Mortgage Bank means a Co-operative Society formed primarily for granting loans on the mor of agricultural land for the liquidation of prior debt agriculturists or for the improvement or better cultivat of agricultural land.

(2) Central Co-operative Land Mortgage Bank means a Co-opera tive Land Mortgage Bank which has among its objects the financing of Co-operative Land Mortgage Bank

) Primary Land Mortgage Bank or Society shall mean a Co- operative Land Mortgage Bank affiliated to the Central C operative Land Mortgage Bank.

(4) "Board" means in relation to a Bank, the Committee of the Central Land Mortgage Bank which has financed such Bank.

(5) "Trustee". (same as the existing 52(2))

1. The word "Central" shall be inserted between the words "The first byelaws of a" and "Co-operative Land Mortgage ank" in Section 53.

2. The words "Central Co-operative Land Mortgage" shall be inserted between the words "when the interest on any loan raised by the" and "Bank" in the first line of Section 54

****

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 1608

Dated, Bangalore, 28th September 1

From

S. Abdul Wajid, Esquire, B.A.,
General Secretary to the Government of His Highness the Maharaja of Mysore.

To

Gulam Mohadin Mekhri, Esquire, B.A., LL.B.,
Registrar of Co-operative Societies in Mysore,
B a n g a l o r e .

Sir,

In forwarding herewith the draft of a Bill further to ame the Mysore Co-operative Societies Regulation, 1918, for favor your opinion thereon, I am directed to invite your reference t letter No. [illegible] 35 dated the 23rd July 1924 from the President the Mysore Land Mortgage Bank, Limited, Bangalore City, addres to you on the subject of amending the Co-operative Societies R lation on the lines of the Madras Act.

The bill may be kindly returned with your opinion within week.

I have the honor to be,
S i r ,
Y. ur most obedient servant,

for General Secretary to Government

Appendix F 6—1]

SUBJECT ..... Limpts

.....

.....

Section

File No.

Serial No.

No. 9-16087—

To

Hn. Regr of Co. Soc

Sir,

I am forwarding herewith the draft of a Bill further to amend the Bdgs Co. Societies Act, for favour of your opinion thereon ~~and return same~~

I am directed to refer your reference to letter No. S. J. 35 dt. 23-7-1934 from the President, Mn. Co. Land Mortgage Bank Ltd. City addressed to you on the subject of amend

iary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

ate of issue 28/9/34

Signed by [signature]

List of enclosures .....

Copied by .....

Examined by... .....

WD 01956—GPB—22,590—12-6-34

Mr. C. S. Bryan [illegible]

[illegible] Address to

[illegible] Bill may kindly

be returned ~~early~~ with

your Opinion within a week

I have etc

[illegible]

for Govt Secy

A BILL FURTHER TO AMEND THE MYSORE CO-OPERATIVE SOCIETIES REGULATION VII O

Preamble. Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation VII, of 1918; It is hereby enacted as follo

Short-title. 1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation 193 .

2. The following shall be inserted as Section (3) of Section 52:-

'Board' means in relation to a bank Committee of the Central Land Mortgage B which has financed such bank.

Addition of New Sections 66 to 91. 3. The following shall be inserted a tions 66 to 91 renumbering the existing tions as sections 92 & 93 respectively. 66 and 67

Distraint and sale of produce when to be made. 166. (1).(i) If any instalmen ble under a mortgage executed in favour bank or any part of such instalment has mained unpaid for more than one month f the date on which it fell due, the co of the bank may, in addition to any oth medy available to the bank, apply to th Registrar or to any person appointed by Government under section 4 of the Myso operative Societies' Regulation, of 191 assist the Registrar, for the recovery such instalment or part by

by distraint and sale of the produce of the mortgaged land including the standi crops thereon. On receipt of such appl cation, the Registrar or such person ma notwithstanding anything contained in a other law for the time being in force, take such action as is necessary to dis train and sell such produce:

Provided that no distraint shall b made after the expiry of twelve months from the date on which the instalment f due.

(ii) The distress shall not be excessive; the value of the property distrained shall be as nearly as possible, equal to the amount due and the expenses of the distraint an the costs of the sale.

(2) (i). Before or at the time when a distraint is made under sub-section (1) ~~s-pra~~, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount fo which the distraint is made.

Distraint how to be effected.

(ii) The demand shall be dated an signed by the distrainer and shall be s ed upon the defaulter by delivering a c to him or to some adult male member of family at his usual place of abode or t his authorized agent, or when such serv cannot be effected, by affixing a copy the demand on some conspicuous part of

his abode and of his land.

Sale of property distrained.

(3) (i) If, within fifteen days from the date of service of the deman referred to in sub-section (2) ~~[supra]~~ the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction th distrained property or such part ther of as may in his opinion be necessary ~~necessary~~ to satisfy the demand toget with the expenses of the distraint an the costs of the sale.

~~(2)~~ (ii) From the proceeds of suc sale, a deduction shall be made at a rate not exceeding one anna in the ~~Ru~~ on account of the costs of the sale.

(iii) From the balance shall b deducted the expenses incurred by the distrainer on account of the distrain

(iv) The remainder, if any, sh be applied to the discharge of the --- amount for which the distraint was ma

(v) The surplus, if any, shal be delivered to the person whose prop has been sold and he shall be given a receipt for the amount discharged fro the proceeds of the sale.

(4) The Government may make rule

Power of Government to make Rules.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation sale of the distrained property;

(iii) for the investigation of claim by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section."

"67 (1) Notwithstanding anything contained in any law for the time being in force, where a power of sale without the intervention of the Court is expressly conferred on the bank by the mortgage deed, the committee of such bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any

any other remedy available to the ba
to bring the mortgaged property to s
without the intervention of the Cour

(2) No such power shall be exerc
unless and until -

(a) The Board has previously
thorized the exercise of the power c
ferred by sub-section (1) after hear
the objections, if any, of the mortg
or mortgagors;

(b) notice in writing requiri
payment of such mortgage money or pa
has been served upon -

(i) the mortgagor or each
the mortgagors;

(ii) any person who has an
interest in or charge upon the prope
mortgaged or in or upon the right to
redeem the same;

(iii) any surety for the pa
of the mortgage debt or any part the
of; and

(iv) any creditor of the a
gagor who has in a suit for the admi
tration of his estate obtained a dec
for sale of the mortgaged property;

(c) default has been made in p
ment of such mortgage money or part
three months after such service.

Application for sale and manner of sale.

68. (1) In exercise of the power
sale conferred by section 66, the co
tee of a bank or any person duly aut
-ed by such committee may apply to t
sale officer appointed in that behal
under section 76 to sell the mortgag
property or any part thereof and suc
officer shall, after giving notice i
writing to all the persons referred

to in section 67 sell such property in the manner prescribed.

(2) The sale shall be by public auction and shall be held in the village where the mortgaged property is situate or at the nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there.

Application to set aside sale on deposit and confirmation of sale in default or on dismissal of such application.

69. (1) When a mortgage property has been sold under section 68, the mortgagor or any person having a right or interest therein affected by the sale, may at any time within thirty days from the date of sale, apply to the committee of the bank concerned to have the sale set aside on his depositing at the office of such bank -

(a) for payment to the bank, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and

(b) for payment to the purchaser a sum equal to five per cent of the purchase money.

(2) If such deposit is made, the

the committee shall make an order setti aside the sale.

(3) Where no application is made und sub-section (1) or where such applicatio is made and disallowed, the committee sh apply to the principal officer of the co-operative department in the district, to make an order confirming the sale, and o such officer confirming the sale, it sha become absolute.

Distribution of the proceeds of sale.

70. (1) The proceeds of every sale under section ~~64~~ 68 shall be applied by the sale officer, first in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale; secondly, in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; thirdly, in payment of the principal money due on accou of the mortgage; and lastly, the residue; if any, shall be paid to the person proving himself interested in the property sold, or, if there are more such persons than one, then to such persons according to their respective interests therein o upon their joint receipt.

(2) (a) Any person dissatisfied
the decision of the sale officer in r
gard to the distribution of such resi
may, within thirty days of the commur
tion to him of such decision, institu
a suit in a Court to establish the ri
he claims.

(b) The sale officer shall nc
distribute such residue until thirty
have elapsed from the communication c
his decision to all the persons conce
or, if a suit has been instituted wit
the said period of thirty days by any
such person, until the suit is dispos
of or otherwise than in accordance wi
the decision of th Court therein.

Explanation :- In this sub-secti
"Court" means the Civil Court which v
have jurisdiction to entertain a suit
enforce the mortgage and within the l
of whose jurisdiction the property so
is situated.

70. Where a sale of mortgaged p
perty has become absolute, the sale
officer shall grant a certificate spe
fying the property sold and the name
the person who at the time of the sal
declared to be the purchaser. Such c

certificate shall bear date, the day on which the sale became absolute.

Delivery of property to purchaser.

72. (1) Where the mortgaged property sold is in the occupancy of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the bank a certificate in respect thereof has been granted under section 70, the Court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 70, the Court shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the

the mortgagor has been transferred to the purchaser.

(3) In regard to the cases dealt with in sub-sections (1) and (2), the provisions relating to resistance to delivery of possession under order XXI of the first schedule to the Code of Civil Procedure,1911, shall mutatis mutandis and so far as may be, apply.

Explanation:- In this section, "Court" shall have the same meaning as in section 70.

73. It shall be competent to a bank to purchase the mortgaged property sold under section 68,but the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Registrar.

Bank may bid for the mortgaged property at sale.

74 (1) The Board may, on the application of a bond and under circumstances in which the power of sale conferred by section 68 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain of any money realized

Appointment of Receiver and his powers.

realiaed by him, his expences of [illegible]
including his remuneration, if any, as
by the Board, and to apply the balance
follows:-

(i) in discharge of all rents, ta
land revenue, rates and outgoings that
affecting the mortgaged property;

(ii) in keeping down all annual c
or other payments, and the interest on
principal sums, having priority to the
mortgage in right whereof he is receiv

(iii) in payment of his commissio
and of the premiums on fire, life or o
insurances, if any, properly payable u
the mortgage-deed or under this Ordinance, a
cost of executing necessary or proper
directed in writing by the mortgagee;

(iv) in payment of the interest n
due under the mortgage;

(v) in or towards discharge of th
principal money, if so directed in writi
by the mortgagee;

and shall pay the residue, if any, of
money received by him to the person w
for the possession of the receiver, wo
have been entitled to receive the inco
which he is appointed receiver, or who
otherwise entitled to the mortgaged pr

(2) A receiver appointed under s section (1) may, for sufficient cause and on application made by the mortga be removed by the Board.

(3) A vacancy in the office of t receiver may be filled up by the Boar

(4) Nothing in this section shal empower the Board to appoint a receiv where the mortgaged property is alrea in the possession of a receiver appoi ed by a Civil Court.

Title of purchaser not to be impeached on the ground of irregularity, etc.

75. When a sale has been made i professed exercise of a power of sal under section 69 and has been confir under section 70, the title of the pu chaser shall not be impeachable on th ground that no case had arisen to au rise the sale or that due notice was not given or that the power was othe wise improperly or irregularly exerc but any person damnified by an unaut rised or improper or irregular exerc of the power shall have his remedy i damages against the Bank.

97

Appointment of sale officer.

76. The Registrar may appoint sale officers for the purpose of conducting sales under section 68.

Power of Government to make rules.

77. The Government may make rules-

(i) for the due proclamation and conduct of the sale;

(ii) for the recovery of the expenses of proclamation and sale;

(iii) for the deposit of the purchase money;

(iv) for the re-sale of the property if the purchase money is not deposited; and

(v) generally for carrying out the provisions of sections 67 to

Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient, or default is made in the payment of any instalment.

78. Where any property mortgaged to a mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the mortgage bank, providing further security enough to render the whole security sufficient for repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to be due at once and the committee shall be entitled to take action against the mortgagor under section 66 or section 67 for the recovery thereof.

Explanation.-- A security is within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by proportion as may be specified in by-laws of the mortgage bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

79. (1) The Board or the Registrar may direct the committee of a bank to take action against a defaulter under section 66, or section 66 to section 67, as the case may be, or section 78 and if

if the Committee neglects or fails to
the Board or the Registrar may take s.
action.

(2) (a) Where such action is taker
the Board, the provisions of this Reg.
and of any rules or regulations made t
under shall apply in respect thereto a
all references to the bank and to its
mittee in the said provisions were ref
ces to the Central Land Mortgage Bank
the Board respectively.

(b) Where such action is taker
the Registrar the provisions of this F
lation and of any rules or regulations
thereunder shall apply in respect ther
as if all references to the bank or to
committee in the said provisions were
ferences to the Registrar.

Mortgagor's power to lease.

80 89. Notwithstanding anything con
in the Transfer of property Regulation
duration of any lease executed by a mo
gagor of property mortgaged to a bank
the execution of the mortgage shall in
case exceed five years.

rtgage not to be estioned on insolvency mortgagor.

81 90. Notwithstanding anything con
in the [Mysore Insolvency Regulation, 925,
Law relating to insolvency for
time being in force] a mortgage execut
in favour of a bank shall not be calle
question on the ground that it was not

100

not executed in good faith for valuab consideration or on the ground that i was executed in order to give the bank a preference over the other creditors the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Regulation. and the Mysore Land Rev. Code

82 ~~cf~~. A mortgage executed in favo of a bank after the commencement of th Regulation shall have priority over an claim of the Government arising from a loan under the Land Improvement Regula tion, or Section 194 of the Mysore Land Revenue Code, granted after the execut of the mortgage.

Not in Madras Act

Right of Bank to pay prior debts of mortgagor.

83 ~~82~~. Where a mortgage is executed in favour of a bank for payment of pri debts of the mortgagor, the bank may, notwithstanding the provisions of ~~any other law for the time being in force~~, notice in writing, require any pers to whom any such debt is due to receiv payment of such debt or part thereof f the bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof as the case may be, shall cease to carr interest from the expiration of the period specified in the notice

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a bank or of the Central Land Mortgage Bank.

84 ~~83~~. (1) Notwithstanding anything contained in the ~~[law of]~~ purpose Registration ~~[for the~~ Regulating/ ~~time being in force]~~ it shall not be necessary for any Director, Secretary or other officer of a bank or of the Central Land Mortgage Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided

~~or any law for the regulation of~~ sec. 58 of That Regulation ~~such law, for~~

(2) Where any instrument is so executed the registering officer to whom such instrument is presented for registration may if he thinks fit, refer to such Director, Secretary or officer for information respecting the same, and on being satisfied the execution thereof, shall register the instrument.

Power of a bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Land mortgage Bank.

85 ~~84~~. Notwithstanding the transfer of mortgage by a bank to the Central Land Mortgage Bank -

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the ~~Board~~ or Registrar and communicated to t

the mortgagor, be payable to the bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(b) the bank shall, in the absence of any specific direction to the contrary issued by the Board or Registrar and communicated to the bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under mortgage.

Special provision for mortgages executed by Managers of joint Hindu Families.

86. (1) Where a mortgage executed in favour of a bank either before or after the passing of this Regulation is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section the following shall not be regarded as purposes not binding on a member of the joint Hindu family, namely:-

(a) the improvement of agricultural land or of the methods of cultivation; or

(b) the purchase of land.

Sections 66 and 68 to apply to loans advanced by banks from funds not borrowed from the Central Land Mortgage Bank.

87. The provisions of sections 66 and 68 shall apply also to the loans advanced by banks from funds which have not been borrowed from the Central Land Mortgage Bank.

Service of notices under these sections.

88. Whenever under the provisions of sections 66 [to 87], notice is required to be given to any person in writing, it shall be sufficient to send such notice registered post.

The Transfer of Property Regulation to apply to such notices.

89. The provisions of sections 102, 103, [and] the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation, for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under sections 66 [to 87].

Officers of banks and of the Central Land Mortgage Bank and sale officers not to bid at sales.

90. At any sale of movable [or immovable] property held under the provisions of sections 66 [to 87] in order to recover any money due to a bank, a Director, Secretary or other officer of such bank or of the Central Land Mortgage Bank (except on behalf of the bank of which he is a Director or Secretary or an officer) or no sale officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by Board.

91. The Board may, if it thinks fit, delegate all or any of its powers

powers under sections 68, 73 and 78
to an executive committee constitute
by it and consisting of two or more
of its members.

SUBJECT.....

.....

.....

Section.

File No.

Serial No.

Diary No. of letter replied to..... C.M No. P3612

To

Subject:-

General and Revenue Secretariat.

( )

the *193*

Date of issue 21.1.35

Signed by Mr C.S.J.

List of enclosures.....

Copied by.....

Examined by.....

Meeting of Select Committee to consider the Bill for amends the Cyprus Co-operative Societies Regulation, 19

The meeting of above said Committee will be held at 1 on Monday the 18th 1935 instead of the 4th February 1935 already notified

In Chambers of the

Speaker of Council.

In Public Office Buildings.

Dear

Sir,

Secy to Ex. 5.

In pursuance of Resolution passed by

2/11/87

Copy to

Hon. P. A. G. Fender

M.P.P.

1 P.A.P.L. Office.

4 Direct Dom

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSOR

General and Revenue Secretariat

Bangalore, Dated 4th January 193

Official Memorandum.

A meeting of the Select Committee appointed to consider the Bill further to amend the Mysore Co-operative Societies regulation, 1918, will be held at 1 P.M. on Monday the 4th February 1935 in the Chambers of the First Member of Council, in the Rev. office Buildings, Bangalore.

By order,

Secretary to the Selec Committee.

List of Members of the Select Committee appointed to consider the Bill further to amend the Mysore Co-operative Societies Regulation 1918.

---

1 of

1. Mr. M.G.Mekhri,B.A.,LL.B., Registrar of Co-operative Societies in Mysore.

2. Mr. A.R.Nageswara Aiyar, B.A.,B.L., Government Advocate in Mysore.

3. Rajaseevasakta Mr. R.Ranga Rao, B.A.,B.L., Chief Secretary to Government.

4. Rajasabhabhushana Mr. A.N.Srinivasa Iyengar,M.A., Retired Member of Council

5. Mr. K.T.Bhasyam Iyengar, B.A.,B.L., Advocate, Cottenpet, Bangalore City.

6. Mr. K.Chengalraya Reddy, B.A.,B.L., Landholder, Kyasamballi, Sowringpet Inlus.

7. Mr. C.M.Chandrasekharaiya,B.A.,LL.B., Advocate, Davangere.

8. Khan Bahadur Md. Abbas Khan, Arcot Srinivasachar's Street, Bangalore.

and the Mover.

109

List of Members of the Select Committee appointed to consider the Bill further to amend the Mysore Co-operative Societies Regulation 1918.

---

1. Mr. M.G.Mekhri, B.A., LL.B., Registrar of Co-operative Societies in Mysore.

2. Mr. A.R.Nageswara Aiyar, B.A., B.L., Government Advocate in Mysore.

3. Rajaseevasakta Mr. R.Ranga Rao, B.A., B.L., Chief Secretary to Government.

4. Rajasabhabhushana Mr. K.R.Srinivasa Iyengar, M.A., Retired Member of Council

5. Mr. K.T.Bhasyam Iyengar, B.A., B.L., Advocate, Cottonpet, Bangalore City.

6. Mr. A.Chengalraya Reddy, B.A., B.L., Landholder, Kyasamballi, Bowringpet Taluk.

7. Mr. C.H.Chandrasekharaiya, B.A., LL.B., Advocate, Davangere.

8. Khan Bahadur Mr. Abbas Khan, Arcot Srinivasachar's Street, Bangalore.

and the Mover.

Appendix F G—1]

14 Copies

SUBJECT .....

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Section

File No.

Serial No.

No. P3387 Cen

To

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 9/1/36

Signed by J.V.C.

A meeting of Select Committee appt to consider the Bill to amend the Kyaone Co-operative Societies 1918, will be held at on Monday the 4th Se 1933 in the Chamber of the First Member Council, in the Office Buildings, Bang

List of enclosures .....

By Cen

Copied by .....

C

Secy to

Select Co

Examined by .....

3/9/36

9o

The L. C. Cyprien

" Desi Bravenec

" C. B. with the request

that necessary teaching & Lunch

arrangements may be made.

Appendix F. G.–1]

SUBJECT.....

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No. 4800-7 Gen Supt

Entered:

Section.

File No.

Serial No.

No.

To Societies Dept, 191

Diary No. of letter replied to.....

General and Revenue Secretariat.

( )

the *193*

Date of issue 6/3/35

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Extract of the S.C to em
this Bill to amend the Lyx Co
Societies Dept, 191
the Numbers of
(vide Fo

Dear Sir,

I enclose ther
copy of draft Extract
the S.C and you are
hereby directed to cause the same to
printed and returned
your Journal early
a week

Yours

Secretary to the

REPORT of the Select Committee on the I
further to amend the Mysore Co-operative Soci
Regulation, VII of 1918.

1. We, the undersigned members of the Select Committee to which the Bill further t the Mysore Co-operative Societies' Regulatio of 1918, was referred, have considered the B at the meeting held on the 18th February 193 have now the honour to submit this our Repor together with a copy of the Bill as amended

2. We consider that there should be o comprehensive definition of " Land Mortgage to include a Central Bank as well as a prima bank and that there should also be ~~separat~~e defin of "Central Bank" and "Primary Bank" showing distinction between them. We have accordingly the definitions in ~~section~~ clause 2 as follows: -

~~"The~~

(i) " Co-operative Land Mortgage Bank " " Bank " means a registered society formed f granting loans on the mortgage of agricultur for the liquidation of prior debts of agricu or for the improvement or better cultivatior agricultural land, or formed for the purpose financing such society.

(ii) " Central Co-operative Land Mortga Bank " or " Central Bank " means a Bank whic for its primary object the financing of Co-operative Land Mortgage Banks.

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(iii) " Primary Land Mortgage Bank" or " Primary Bank " means a Bank affiliated to a Central Bank.

(iv) " Board" means in relation to a Primary Bank the Committee of the Central Bank which has financed such Primary Bank.

(v) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

3. The amendment proposed in clause 3 of the Bill would make it obligatory only on a Central Bank to make provision in its first bye-laws for th matters specified in section 53 of the Regulation. We are of opinion that the bye-laws of all mortgage Central as well as Primary, should make provision for the matters specified in section 53 and that th power of approval of the first bye-laws and subsequ alterations thereof should remain with the Governme in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 3 of the Bill:-

"At the end of section 53, ~~add~~ the following words shall be added —

Provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any Bank or class of Banks.' "

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4. In view of the above change in section clause 4 of the Bill is unnecessary and may be deleted.

5. (a) In sub-clause 1(i) of section 66 as referred to in clause 5 of the Bill, the words " of the Mysore Co-operative Societies' Regulati 1918, " may be deleted and the words " the Trans of Property Regulation, 1918" may be substituted for the words " any other law for the time being in force".

(b) We have recast para (ii) of subsect 3 of section 66 as referred to in clause 5 of t Bill as follows in order to make it clear that t deduction from the proceeds of sale shall be onl of the cost of the sale:-

" From the proceeds of such sale a deduc shall be made of the costs of the sale not excee 6¼ per centum of the demand".

as referred to in clause 5 of the

6. We have recast section 67 as follows to make the meaning clear that a bank may take steps, of the portion of the loan for which security is lacking, within the entire loan:—

" Where any property mortgaged to a Bank is wholly or partially destroyed or the security rendered insufficient and the mortgagor, having given a reasonable opportunity by the Committee the Bank, of providing further security enough t render the whole security sufficient or of repay such portion of the loan as may be determined by committee, has failed to provide such security o repay such portion of the loan, the Committee sh entitled to take action against the mortgagor un

the provisions of section 66 for the recovery such portion of the loan.

Explanation.- A security is insufficie within the meaning of this section unless the value of the mortgaged property exceeds the a for the time being due on the mortgage by suc proportion as may be specified in the bye-law the bank."

7. In section 71 as referred to in cl of the Bill, ~~add~~ the words " granted after execution of the mortgage" at the end. should be added

8. In subsection (1) of section 73 as to in clause 5 of the Bill, the words "or c Central Bank" may be deleted, since a Centr Bank is included in the definition of a Bar

9. In section 74 as referred to in cl of the Bill, the term " Bank" is intended t refer to a primary Bank. This will be made by substituting the words "Primary Bank" fc word "Bank" wherever it occurs in that sect except in "Central Bank".

10. Section 75 as referred to in clau the Bill.

A few members of the Committee we opinion that there was no necessity for giv special privilege to land mortgage banks as creditors against the co-parceners of a joi family and that the ordinary rules of the H Law should be applied to them.

But the majority of the Committee

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of a different view and held that such a provision was quite necessary if the facilities of getting lo from land mortgage banks should be available to Hindu agriculturists who form a large portion o the population of the country. The mortgag banks which were bound by statutory provisions controlled by the Registrar and the Government, stood on a different footing from an ordinary creditor. Further, they would make all the inquiries which a court would expect of them in the necessities of a loan before granting it. After all, the section shifted only the burden proof and did not take away the right of the a co-parcener or a minor from contesting the binding nature of a loan contracted by the mana of the family.

For these reasons, the majority Committee, was of t inion that the clause is necessary and should retained. Since a land mortgage bank in Mysc cannot grant a loan for the purchase of land, the purpose (b) mentioned in subsection 2 may b deleted. Subsection 2 is recast as follows:-

" For the purpose of this section, the improvement of agricultural land or of the meth of cultivation shall not be regarded as a purpc not binding on a member of the Joint Hindu Family".

11. Section 76 as referred to in clause 5 of the Bill.

This section may be deleted as it is unnecessary in view of the amended definition c " Co-operative Land Mortgage Bank".

12. We have made a few verbal alterations in some clauses which are indicated in the bill appended.

We recommend that the bill as amended may be republished in the Gazette.

Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies' Regulation, VII of

*****:0:*****

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Co-operative So- referred, have co... ...ebruary 1935 an ...r with a

GENERAL AND REVISED ... Office of the Select Committee, Dated, Bangalore, 5 - 3 - 1935.

Subject - Report of the Select Committee to consider the Bill to amend the Mysore Co-operative Societies Regulation, 1918.

Dear Sir,

I enclose herewith copy of draft report of the Select Committee and request that the same may kindly be returned with your approval early within a week.

Yours sincerely,

Secretary to the Select Committee

ensive ntral also be showing recast Bank " the f prior letter purpose Bank " Primary anks. ry Bank ank the h Prim

Bank.

(v) " Trustee " means the person appointed by the Govern ment to secure the fulfilment of the obligations of a Bank the holders of debentures issued by such Bank.

3. The amendment proposed in Clause 3 of the Bill would make it obligatory only on a Central Bank to make

make provision in its first bye-laws for the matters specified in Section 53 of the Regulation. We are of opinion that the bye-laws of all mortgage banks central as well as primary, should make provision for the matters specified in Section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 3 of the bill:-

" At the end of Section 53, the following words, shall be added -

' Provided that the Government may delegate to the Registrar the power of approval mentioned in this Section in the case of any bank or class of banks. "

4. In view of the above change in Section 53, clause 4 of the bill is unnecessary and may be deleted.

5. (a) In sub clause (1)(i) of Section 66 as referred to in clause 5 of the bill, the words " of the Mysore Co-operative Societies' Regulation, 1918, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection (3) of Section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds or sale shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6¼ per centum of the demand. "

6. We have recast Section 67 as referred to in clause 6 of the Bill as follows to make the meaning clear that a bank may

may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan

" Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 66 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortage by such proportion as may be specified in the by-laws of the bank. "

7. In Section 71 as referred to in clause 5 of the bill the words " granted after the execution of the mortgage " should be added at the end.

8. In sub section (1) of Section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank " may be deleted, since a Central Bank is included in the definition of a Bank.

9. In Section 74 as referred to in clause 5 of the bill the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the words " Primary Bank " for the word " Bank " wherever it occurs in the section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the Bill

A few members of the Committee were of opinion that this section may be deleted on the ground that there was no

no necessity for giving special privilege to land mc banks as creditors against the co-parceners of a Joi Hindu family and that the ordinary rules of the Hinc should be applied to them.

But the majority of the committee were of a di view and hold that such a provision was quite necess if the facilities of getting loans from land mortgag should be available to Hindu agriculturists who form large portion of the population of the country. Th banks which were bound by statutory provisions and c by the Registrar and the Government, stood on a diff footing from ordinary creditors. Further, they w all the enquiries which a Court would expect of th the necessities of a loan before granting it. Af the section shifted only the burden of proof and d take away the right of a coparcener or a minor fro the binding nature of a loan contracted by the mana the family. For these reasons, the Committee, by was of the opinion that the clause is necessary an retained. Since a land mortgage bank in Mysore ca grant a loan for the purchase of land, the purpose tioned in sub section(2) may be deleted. Sub secti recast as follows:-

" For the purpose of this section, the improve agricultural land or of the methods of cultivation be regarded as a purpose not binding on a member of Hindu Family "

11. Section 76 as referred to in clause 5 of t

This section may be deleted as it is unnecessary in the amended definition of " Co-operative Land ...

Bank. "

12. We have made a few verbal alteratior which are indicated in the bill appended.

We recommend that the bill as amended may be reput in the Gazette.

" Copy "

Secretary, Select Committee

Report of the Select Committee on the Bill furt
amend the Mysore Co-operative Societies' Regulation, VII

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O.No.P.L.800-1

GENERAL AND REVENUE SECRETARIAT,

Office of the Select Committee,

Dated, Bangalore, 5 - 3 - 1935.

Subject - Report of the Select Committee to consider the Bill to amend the Mysore Co-operative Societies Regulation, 1918.

Dear Sir,

I enclose herewith copy of draft report of the Select Committee and request that the same may kindly be returned with your approval early within a week.

Yours sincerely,

Secretary to the Select Committee

Rajaseva sakta R. Ranga Rao, Esquire, B.A., B.L.,
Member, Select Committee, Bangalore

(iv) " Board " means in relation to a primary Bank t Committee of the Central Bank which has financed such pri Bank.

(v) " Trustee " means the person appointed by the G ment to secure the fulfilment of the obligations of a Ban the holders of debentures issued by such Bank.

3. The amendment proposed in Clause 3 of the bill would make it obligatory only on a Central Bank to make

make provision in its first bye-laws for the matters specified in Section 53 of the Regulation. We are of opinion that the bye-laws of all mortgage banks central as well as primary, should make provision for the matters specified in Section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 3 of the bill:-

" At the end of Section 53, the following words, shall be added -

' Provided that the Government may delegate to the Registrar the power of approval mentioned in this Section in the case of any bank or class of banks. "

4. In view of the above change in section 53, clause 4 of the bill is unnecessary and may be deleted.

5. (a) In sub clause (1) (i) of Section 66 as referred to in clause 5 of the bill, the words " of the Mysore Co-operative Societies' Regulation, 1918, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may be substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection (3) of section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds of sale shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6¼ per cent of the demand. "

6. We have recast Section 67 as referred to in clause 6 of the bill as follows to make the meaning clear that a bank

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may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan

" Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 66 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortage by such proportion as may be specified in the bye-laws of the bank. "

7. In Section 71 as referred to in clause 5 of the Bill the words " granted after the execution of the mortgage should be added at the end.

8. In sub section (1) of Section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank may be deleted, since a Central Bank is included in the definition of a Bank.

9. In Section 74 as referred to in clause 5 of the Bill the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the words " primary Bank " for the word " Bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the Bill A few members of the Committee were of opinion that this section may be deleted on the ground that there was no

no necessity for giving special privilege to land mortgage banks as creditors against the co-parceners of a Joint Hindu family and that the ordinary rules of the Hindu Law should be applied to them.

But the majority of the committee were of a different view and held that such a provision was quite necessary if the facilities of getting loans from land mortgage banks should be available to Hindu agriculturists who form a large portion of the population of the country. The mortg banks which were bound by statutory provisions and controll by the Registrar and the Government, stood on a different footing from ordinary creditors. Further, they would make all the enquiries which a Court would expect of them, into the necessities of a loan before granting it. After all, the section shifted only the burden of proof and did not take away the right of a coparcener or a minor from contesti the binding nature of a loan contracted by the manager of the family. For these reasons, the Committee, by a majori was of the opinion that the clause is necessary and should b retained. Since a land mortgage bank in Mysore cannot gra grant a loan for the purchase of land, the purpose (b) mentioned in sub section(2) may be deleted. Sub section(2) is a recast as follows:-

" For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the Join Hindu family ".

11. Section 76 as referred to in clause 5 of the bill -

This section may be deleted as it is unnecessary in view of the amended definition of " Co-operative Land Mortgage Bank "

Bank. "

12. We have made a few verbal alterations in some clauses which are indicated in the bill appended.

We recommend that the bill as amended may be republished in the Gazette.

" Copy "

Secretary, Select Committee.

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Sir,

I enclose herewith ... draft report of the ... Committee ... which ... may kindly ... within ... next week.

Yours obediently,

Secretary to the Select Committee

The draft report of the Committee as hereunto annexed duly approved

Yours sincerely

Mohammed Abbas Khan

Rao Bahadur Mahomed Abbas Khan, Esquire,
Member, Select Committee, Bangalore.

Report of the Select Committee on the Bill further a
mend the Mysore Co-operative Societies' Regulation, VII

We, the undersigned members of the Select Committee
which the Bill further to amend the Mysore Co-operative
cieties' Regulation, VII of 1919, was referred, have con
ed the Bill at the meeting held on the 16th February 193
have now the honour to submit this our report together wi
copy of the Bill as amended by us.

2. We consider that there should be one comprehensi
definition of " Land Mortgage Bank " to include a central
bank as well as a primary bank and that there should als
definitions of " Central Bank " and " Primary Bank " sho
the distinction between them. We have accordingly reca
the definitions in clause 2 as follows:-

(i) " Co-operative Land Mortgage Bank " or " Bank
means a registered society formed for granting loans on
mortgage of agricultural land, for the liquidation of pr
debts of agriculturists, or for the improvement or bette
cultivation of agricultural land, or formed for the purp
of financing such society.

(ii) " Central Bank Co-operative Land Mortgage Bank
or " Central Bank " means a bank which has for its primar
object the financing of co-operative land mortgage banks

(iii) " Primary Land Mortgage Bank " or " Primary Ba
means a bank affiliated to a Central Bank.

(iv) " Board " means in relation to a Primary Bank
committee of the Central Bank which has financed such pr
bank.

(v) " Trustee " means the person appointed by the Go
ment to secure the fulfilment of the obligations of a Ban
the holders of debentures issued by such Bank.

3. The amendment proposed in clause 7 of the Bill
would make it obligatory only on a Central Bank to ask

-sive provision in its first bye-laws for the matters specified in section 53 of the regulation. We are of opinion that the bye-laws of all mortgage banks central as well as primary, should make provision for the matters specified in section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 5 of the bill:-

" At the end of section 53, the following words, shall be added -

' provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any bank or class of banks. "

4. In view of the above change in section 53, clause of the bill is unnecessary and may be deleted.

5. (a) In sub clause(1)(i) of section 66 as referred to in clause 5 of the bill, the words " of the Mysore Co-operative Societies' Regulation, 1918, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may be substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection(3) of section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds of sale shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6¼ per centum of the demand. "

6. We have recast section 67 as referred to in clause of the bill as follows to make the meaning clear that a bank

may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan

" Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee may failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 66 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the bank. "

7. In section 71 as referred to in clause 5 of the bill the words " granted after the execution of the mortgage should be added at the end.

8. In sub section (1) of section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank " may be deleted, since a Central Bank is included in the definition of a Bank.

9. In section 74 as referred to in clause 5 of the bill the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the word a " primary Bank " for the word " Bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the bill A few members of the committee were of opinion that this section may be deleted on the ground that there was no

no necessity for giving special privilege to land mortgage banks as creditors against the co-parceners of a joint Hindu family and that the ordinary rules of the Hindu Law should be applied to them.

But the majority of the committee were of a different view and held that such a provision was quite necessary if the facilities of getting loans from land mortgage banks should be available to Hindu agriculturists who form a large portion of the population of the country. The mortgage banks which were bound by statutory provisions and controls by the legislature and the Government, stood on a different footing from ordinary creditors. Further, they would make all the enquiries which a Court would expect of them, into the necessities of a loan before granting it. After all, the section shifted only the burden of proof and did not take away the right of a co-parcener or a minor from contesting the binding nature of a loan contracted by the manager of the family. For these reasons, the Committee, by a majority are of the opinion that the clause is necessary and should be retained. Since a land mortgage bank in Mysore cannot sanction a loan for the purchase of land, the purpose (b) mentioned in sub section (2) may be deleted. Sub section (2) may be recast as follows:-

" For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the joint Hindu family ".

11. Section 76 as referred to in clause (7) of the bill, while this section may be [illegible] it is

bank."

12. We have made a few verbal alterations in some clause which are indicated in the bill appended.

We recommend that the bill as amended may be republished in the Gazette.

Approved

Mohammed Ali Mohammed

" copy "

Secretary, Select Committee.

D. M. CHANDRASEKHARAIYA, B.A., LL.B.
ADVOCATE
.....R, MYSORE LEGISLATIVE COUNCIL

DAVANGERE

Dated 8/8/1935

135

To,
The Secretary
Legislative Council
Bangalore

Dear Sir,

The Report of the Select Committee to consider the Bill to amend the Co-op: societies Regulation is enclosed herewith having approved the same.

You know there was discussion about giving provision for exempting a portion of agricultural produce from attachment and sale as in C.P.C Sec 60 or L.R. Code Sec 162. The point was raised by me, but in view of the general sense of the Committee

abandoned at once and
Circa 1911 wrote a book about the
Rēpers

Yours truly

D. Hendricks

Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies' Regulation, VII of [illegible]

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Co-operative Societies' Regulation, VII of 1918, was referred, have considered the Bill at the meeting held on the 15th February 1937 and have now the honor to submit this our report together with a copy of the Bill as amended by us.

2. To consider that there should be one comprehensive definition of " Land Mortgage Bank " to include a central bank as well as a primary bank and that there should also be definitions of " Central Bank " and " Primary Bank " showing the distinction between the . We have accordingly recast the definitions in clause 2 as follows:-

(i) " Co-operative Land Mortgage Bank " or " Bank " means a registered society formed for granting loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed for the purpose of financing such society.

(ii) " Central Bank Co-operative Land Mortgage Bank " or " Central Bank " means a bank which has for its primary object the financing of co-operative land mortgage banks.

(iii) " Primary Land Mortgage Bank " or " Primary Bank " means a bank affiliated to a Central Bank.

(iv) " Board " means in relation to a primary bank the Committee of the Central Bank which has financed such primary Bank.

(v) " Trustee " means the person appointed by the Government to secure the fulfilment of the obligations of a bank to the holders of debentures issued by such Bank.

3. The amendment proposed in Clause 3 of the Bill would make it obligatory only on a Central Bank to make

...provision in its first bye-laws for the matters specified in ... section 47 of the regulation. ... a case of opinion ... the bye-laws of all ... banks be ... as well as ..., should make provision for the matters specified in section 48 and that the power of the first bye-laws and subsequent alterations thereof should reside with the Government in the case of Central Banks while the power of approval ... delegated by the Government to the Registrar in the ... of other banks.

... recommend that the following be substituted for clause 3 of the bill:-

"At the end of section 73, the following words, shall be added:-

'provided that the Government may delegate to the ... the power of approval mentioned in this section ... of any class or class of banks.'"

"2. In view of the above change in section 73, clause 4 of the bill is unnecessary and may be deleted."

"3. (a) In the clause (1)(i) of section 77 as referred to in clause 5 of the bill, the words " of the Indore Co-operative Societies' Regulation, 1915, " may be deleted and the words " the Registrar of Co-operative Societies " may be substituted for the words " and other law for the time being in force. "

(b) The above recommendation (a) of sub-section (2) of section 77 ... referred to in clause ... of the bill is ... in order to make it clear that the deduction from the purchase price of sale ... may be only of the cost of the ...:-

" Provided that the amount of such sale's deduction shall be made of the costs of the sale not exceeding 6 per centum of the demand. "

(c) The above recommendation ... referred to in clause ... of the bill is ... to make the meaning clear that a bank ...

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may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan.

Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security sufficient to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 80 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the security by such proportion as may be specified in the bye-laws of the bank."

7. In section 71 as referred to in clause 5 of the bill the words " granted after the execution of the mortgage " should be added at the end.

8. In sub section (1) of section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank " may be deleted, since a Central Bank is included in the definition of a Bank.

9. In section 74 as referred to in clause 5 of the bill the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the word s " primary bank " for the word " Bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the Bill : Few members of the Committee were of opinion that this section may be deleted on the ground that there was no

[illegible] permit for divorce special privileges to land mortgage [illegible] condition against the enforcement of a joint [illegible] family and that the ordinary rules of the Hindu law [illegible] applied to them.

[illegible] the majority of the Committee were of a different [illegible] and thought that such a provision was quite necessary [illegible] the facilities of getting loans from land mortgage banks [illegible] available to Hindu agriculturists who form a [illegible] proportion of the population of the country. The mortgages [illegible] are looked upon by Government favourably and control [illegible] the Registrar and the Government, stand on a different [illegible] from ordinary creditors. Further, they would make [illegible] the creditors against whom they would enforce their [illegible] securities of a loan before acquiring it. After all, [illegible] action saddled with the burden of proof would not [illegible] any the right of a coparcener or a member from contesting the binding nature of a loan contracted by the manager of the family. For these reasons, the Committee, by a majority [illegible] of the opinion that the clause is necessary and should [illegible] retained. [illegible] a land [illegible] built in villages cannot be [illegible] a loan for the purchase of land, the purpose (b) may [illegible] to put provision (2) may be deleted. [illegible] section (4) is [illegible] be follows:-

" [illegible] the purpose of this section, the improvement of [illegible] agricultural land or of the methods of cultivation shall not [illegible] be taken as a purpose not binding on a member of the joint [illegible] family ".

11. Action taken proposed to be taken on clause 9 of the bill -

This section may be deleted as it is unnecessary in view of the amended definition of " co-operative land mortgage bank

12. We have made a few verbal alterations in some cla
which are indicated in the bill appended.

We recommend that the bill as amended may be republis
in the Gazette.

" Copy "

Secretary, Select Committee

D. H. Chandrasekharaiya

S 250 834

THE MYSORE CO-OPERATIVE LAND MORTGAGE BANK, LTD.

ALBERT VICTOR ROAD, CHAMARAJPET.

1111

RAJASABHABHUSHANA
K. R. SRINIVASIENGAR, M.A.,
PRESIDENT.

BANGALORE CITY.

DATED 12/3/1935.

14/3/35

Dear Mr Subramanyam

I herewith return with my approval & signature the draft report of the Select Committee appointed to consider the Co-operative Societies Bill & Amendment Bill sent by you with your letter no P 4800-7 of 5th inst.

On page 1 of the draft report Clause 1 of the Definition of Co-operative Land Mortgage Bank as used primarily has been kept as it is. Unless this has been done deliberately & I think it may be kept as it is the existing Section 5 2 (d).

Yours &c

K. R. Srinivasiengar

Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies' Regulation, VII of

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Co-operative Societies' Regulation, VII of 1918, was referred, have considered the Bill at the meeting held on the 16th February 1935 and have now the honor to submit this our report together with a copy of the Bill as amended by us.

2. We consider that there should be one comprehensive definition of " Land Mortgage Bank " to include a central bank as well as a primary bank and that there should also be definitions of " Central Bank " and " Primary Bank " showing the distinction between them. We have accordingly recast the definitions in clause 2 as follows:-

(i) " Co-operative Land Mortgage Bank " or " Bank " means a registered society formed for granting loans on the mortgage of agricultural land, primarily for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed for the purpose of financing such society.

(ii) " Central Bank Co-operative Land Mortgage Bank " or " Central Bank " means a Bank which has for its primary object the financing of co-operative land mortgage banks.

(iii) " Primary Land Mortgage Bank " or " Primary Bank " means a bank affiliated to a Central Bank.

(iv) " Board " means in relation to a Primary Bank the Committee of the Central Bank which has financed such Primary Bank.

(v) " Trustee " means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

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make provision in its first bye-laws for the matters specified in Section 53 of the Regulation. We are of opinion that the bye-laws of all mortgage banks central as well as primary, should make provision for the matters specified in Section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 3 of the bill:-

" At the end of Section 53, the following words, shall be added -

Provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any bank or class of banks. "

4. In view of the above change in section 53, clause 4 of the bill is unnecessary and may be deleted.

5. (a) In sub clause (1) (i) of Section 66 as referred to in clause 5 of the bill, the words " of the Madras Co-operative Societies' Regulation, 1916, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection (3) of Section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds of sale shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6 per centum of the decreed. "

may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan

" Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 68 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the bank. "

7. In section 71 as referred to in clause 5 of the bill the words " granted after the execution of the mortgage " should be added at the end.

8. In sub section (1) of section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank " may be deleted, since a Central Bank is included in the definition of a Bank.

9. In section 74 as referred to in clause 5 of the Bill the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the word " primary bank " for the word " Bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the Bill

of the committee were of opinion that this

no necessity for giving special privilege to land mortgage banks as creditors against the co-parceners of a joint Hindu family and that the ordinary rules of the Hindu law should be applied to them.

But the majority of the committee were of a different view and held that such a provision was quite necessary if the facilities of getting loans from land mortgage banks should be available to Hindu agriculturists who form a large portion of the population of the country. The mortgage banks which were bound by statutory provisions and controll by the Registrar and the Government, stood on a different footing from ordinary creditors. Further, they would make all the enquiries which a Court would expect of them, into the necessities of a loan before granting it. After all, the section shifted only the burden of proof and did not take away the right of a coparcener or a minor from contesting the binding nature of a loan contracted by the manager of the family. For these reasons, the Committee, by a majority are of the opinion that the clause is necessary and should retained. Since a land mortgage bank in Mysore cannot now grant a loan for the purchase of land, the purpose (b) mentioned in sub section(2) may be deleted. Sub section(2) is recast as follows:-

" For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the Joint Hindu family "

11. Section 76 as referred to in clause 5 of the bill

This section may be deleted as it is unnecessary in view of the amended definition of " Co-operative Land Mortgage Bank

Bank."

12. We have made a few verbal alterations in some clau
which are indicated in the bill appended.

I recommend that the bill as amended may be republish
in the Gazette.

" Cony "

12/3/33

Secretary, select committe

5229/33
F

GOVERNMENT OF MYSORE.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPRATIVE SOCIETIES
IN MYSORE.

hic Address:
-OPERT"
NGALORE

696

Dated, Bangalore, 14th March *193* 5

Dear Sir,

I am in receipt of the draft report of the Select Committee to consider the bill to amend the Mysore Co-operative Societies Regulation and will forward my views before the 20th after a discussion with the Deputy Registrar who is away at present on tour.

Yours Sincerely,

M. S. [illegible]
14/3

C.Subrahmanya Iyer, Esq., B.A. B.L.,
Secretary to the Select Committee for
amending the Mysore Co-operative Societies
Regulation, Genl.& Rev.Secretari

GENERAL AND REVENUE SECRETARIAT,

O. No. P5173-75 *Dated, Bangalore* 16th March 1935.

20 151

Telegraj
"CC
BA

.O. No.

Dear Sir,

I am desired to invite reference to my D.O.letter No.P.4800-7 dated 5/6th March 1935 forwarding for your approval and return a draft of the Repor of the Select Committee on the Bill further to amend the Mysore Co-operative Societies Regulation and to request that the return of the same may kindly be - expedited.

Yours sincerely,

4

To

Member, Select Committee,
Mysore Co-operative Societies Regulation.

Appendix F. G.—11

SUBJECT.....

.....

.....

Section.

File No.

Serial No.

No. P 5173-75

To

Yours

K. Chengalraya Re

K. T. Bhashyam Ay
Asst. C

A. R. Nageswara R
Re

Diary No. of letter replied to D 10

General and Revenue Secretariat.

( )

the 193

Date of issue 20/3/75

Signed by

Dear Sir,

I am directed
incide refer to my
Letter No P 6800-7 dt 5/6. 3.
forwarding for your
& return a draft of the
of the S.C on the a
further to amend the
Co-Operative Societies Re
and to request that
return of the forms a

List of enclosures.....

Copied by.....

Examined by.....

Kindly be expedited

yours

index

5362/874

GOVERNMENT OF MYSORE.

DEPARTMENT OF CO-OPERATION.

OFFICE OF THE REGISTRAR OF CO-OPRATIVE SOCIETIE IN MYSORE.

Telegraphic Address:
"CO-OPERT"
BANGALORE

Dated, Bangalore, 18th March 1935

C.O. No. 716

C 29/8/35 153

Dear Sir,

With reference to your No.P.4800-7 dated the 6th instant forwarding copy of the draft report of the Select Committee and asking my approval thereto I write to state that in clause 2 (i) "or Bank" & in (ii) "or Central Bank" may be omitted as there are other Banks and Central Banks registered under the Co-operative Societies Regulation issuing loans other than on the mortgage of agricultural lands. Again in clause 66(i) the words "of the Mysore Co-operative Societies Regulation 1918" has been suggested to be deleted retaining "under section 4". I think even this may be deleted or the whole portion "under section 4 of the Mysore Co-operative Societies Regulation 1918" retained.

Yours Sincerely,

M. S. [illegible]
18/3

C.Subrahmanya Iyer,Esq.,
B.A.B.L.,

S 348 934

HENGALARAYA REDDY,
B.A., B.L., M.L.C.,
RESIDENT, DISTRICT BOARD,
KOLAR DISTRICT.

KOLAR

DATE 19th Mar: 1935.

6 293

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ar Sir,

I am forwarding herewith the draft ort of the Select Committee to consider the ll to amend the Mysore Co-operative Socie ties gulation duly signed subject to a short note of xplanation enclosed herewith.

I am sorry for the delay in sending back report with the needful done.

Yours sincerely,

K. Chengalaraya Reddy

NCLOSURES.2.

he S e c r e t a r y,
The Select Committee
Mysore Co-operative Regulation
Amendment Bill, Old Public Offices,
B a n g a l o r e.

N O T E.

I am not convinced as to the necessity of giving any special privileges to Land Mortgage Banks as Creditors against the Co-parceners of a Joint Hindu Family, though I am whole-heartedly for creating as congenial conditions as possible for the successful functioning of the Banks. On the other hand, I am apprehensive that the special privilege that is sought to be given to the Banks may encourage a tendency on their part to be somewhat lax in making full and proper investigations in such cases. In any case, the provision appears to be rather premature, since there have not been many cases where the Bank has suffered in their transactions with members of a Joint Hindu Family.

K. Chengalaraya Reddy

Report of the Select Committee on the Bill further to amend the Pyrare Co-operative Societies' Regulation, VII of [illegible]

We, the undersigned members of the Select Committee to which the Bill further to amend the Pyrare Co-operative Societies' Regulation, VII of 1918, was referred, have considered the Bill at the meeting held on the 18th February 1935 and have now the honour to submit this our report together with a copy of the Bill as amended by us.

2. We consider that there should be one comprehensive definition of " Land Mortgage Bank " to include a central bank as well as a primary bank and that there should also be definitions of " Central Bank " and " Primary Bank " showing the distinction between them. We have accordingly recast the definitions in clause 2 as follows:-

(i) " Co-operative Land Mortgage Bank " or " Bank " means a registered society formed for granting loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed for the purpose of financing such society.

(ii) " Central Bank Co-operative Land Mortgage Bank " or " Central Bank " means a Bank which has for its primary object the financing of co-operative land mortgage banks.

(iii) " Primary Land Mortgage Bank " or " Primary Bank " means a bank affiliated to a Central Bank.

(iv) " Board " means in relation to a Primary Bank the Committee of the Central Bank which has financed such Primary Bank.

(v) " Trustee " means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

3. The amendment proposed in clause 3 of the bill would make it obligatory only on a Central Bank to make

make provision in its first bye-laws for the matters specified in section 53 of the Regulation. We are of opinion that the bye-laws of all mortgage banks central as well as primary, should make provision for the matters specified in section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 4 of the bill:-

" At the end of section 53, the following words, shall be added:-

' provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any bank or class of banks. "

4. In view of the above change in section 53, clause 4 of the bill is unnecessary and may be deleted.

5. (a) In sub clause(1)/(1) of section 66 as referred to in clause 5 of the bill, the words " of the Mysore Co-operative Societies' Regulation, 1918, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection(3) of section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds ... shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6 per centum of the demand. "

6. We have recast section 67 as referred to in clause 6 of the bill as follows to make the meaning clear that a t

may take steps for recovery of the portion of the loan f which security is inadequate, without recalling the entire

" Where any property mortgaged to a bank is wholly partially destroyed or the security is rendered insuffic and the mortgagor, having been given a reasonable opport by the committee of the bank, of providing further secur ordered to render the whole security sufficient or of rep such portion of the loan as may be determined by the co has failed to provide such security or to repay such po of the loan, the committee shall be entitled to take ac against the mortgagor under the provisions of section 6 recovery of such portion of the loan.

Explanation - A security is insufficient within th meaning of this section unless the value of the mortgag property exceeds the amount for the time being due on t mortgage by such proportion as may be specified in the b of the bank. "

7. In section 71 as referred to in clause 9 of the the words " granted after the execution of the mortgage should be omitted by the Act.

8. In sub section (1) of section 73 as referred to clause 5 of the bill, the words " or of the Central Ban may be deleted, since Central Bank is included in th definition of a bank.

9. In section 74 as referred to in clause 5 of the the term " bank " is intended to refer to a primary ban same will be made clear by substituting the word " ba bank " for the word " bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the B The members of the Committee were of opinion that thi section may be deleted on the ground that there was no

no necessity for giving special privilege to land mort
banks as creditors against the co-parceners of a Joint
Hindu family and that the ordinary rules of the Hindu
should be applied to them.

But the majority of the committee were of a diff
view and held that such a provision was quite necessa
if the facilities of getting loans from land mortgage
should be available to Hindu agriculturists who form
large portion of the population of the country. The
banks which were bound by statutory provisions and ov
by the registrar and the Government, stood on a diffe
footing from ordinary creditors. Further, they wou
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the section shifted only the burden of proof and did
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the family. For these reasons, the Committee. by
was of the opinion that the clause is necessary and
retained. Since a land mortgage bank in Mysore can
grant a loan for the purchase of land, the purpose (
tioned in sub section(2) may be deleted. Sub sectio
recast as follows:-

" For the purpose of this section, the improvem
agricultural land or of the methods of cultivation s
be regarded as a purpose not binding on a member of
Hindu family ".

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This section may be deleted as it is unnecessary in
the amended definition of " Co-operative Land mortg

Bank. "

12. We have made a few verbal alterations in some claus which are indicated in the bill appended.

We recommend that the bill as amended may be republish in the Gazette.

" Copy "

Secretary, Select Committ

K.C.Reng alaraya Reddy
(Subject to a note)

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We therefore propose that the following be substituted for clause 3 of the bill:-

" At the end of Section 53, the following words, shall be added -

' Provided that the Government may delegate to the Registrar the power of approval mentioned in this Section in the case of any bank or class of banks. "

4. In view of the above change in Section 53, clause 4 of the bill is unnecessary and may be deleted.

5. (a) In sub clause(1)(i) of section 66 as referred to in clause 5 of the bill, the words " of the Mysore Co-operative Societies' Regulation, 1918, " may be deleted and the words " the Transfer of Property Regulation, 1918 " may be substituted for the words " any other law for the time being in force. "

(b) We have recast para (ii) of subsection(3) of section 66 as referred to in clause 5 of the bill as follows in order to make it clear that the deduction from the proceeds of sale shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction shall be made of the costs of the sale not exceeding 6¼ per centum of the demand. "

6. We have recast section 67 as referred to in clause 6 of the

may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan.

" Where any property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 66 for recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the by-laws of the bank. "

7. In section 71 as referred to in clause 5 of the bill, the words " granted after the execution of the mortgage " should be added at the end.

8. In sub section (1) of section 73 as referred to in clause 5 of the bill, the words " or of the Central Bank " may be deleted, since a Central Bank is included in the definition of a Bank.

9. In section 74 as referred to in clause 5 of the bill, the term " Bank " is intended to refer to a primary bank. This will be made clear by substituting the words " Primary Bank " for the word " Bank " wherever it occurs in that section, except in " Central Bank ".

10. Section 75 as referred to in clause 5 of the Bill: A few members of the Committee were of opinion that this section may be deleted on the ground that there was no

no necessity for giving special privilege to land mort- banks as creditors against the co-parceners of a Joint Hindu family and that the ordinary rules of the Hindu Law should be applied to them.

But the majority of the committee were of a different view and held that such a provision was quite necessary if the facilities of getting loans from land mortgage banks should be available to Hindu agriculturists who form a large portion of the population of the country. The mortg banks which were bound by statutory provisions and controll by the Registrar and the Government, stood on a diffe-- footing from ordinary creditors. Further, they would make all the enquiries which a Court would expect of them, into the necessities of a loan before granting it. After all, the section shifted only the burden of proof and did not take away the right of a copareener or a minor from contesting the binding nature of a loan contracted by the manager of the family. For these reasons, the Committee, by a majority was of the opinion that the clause is necessary and should be retained. Since a land mortgage bank in Mysore cannot be grant a loan for the purchase of land, the purpose (b) mentioned in sub section(2) may be deleted. Sub section(2) is to recast as follows:-

" For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the Joint Hindu family ".

11. Section 76 as referred to in clause 5 of the bill -

This section may be deleted as it is unnecessary in view of the amended definition of " Co-operative Land Mortgage

Bank. "

12. We have made a few verbal alterations in some cla which are indicated in the bill appended.

We recommend that the bill as amended may be republis in the Gazette.

" Copy "

I agree
17. 3. '35.

Secretary, Select Committee

5923

P

K. T. BHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY
15.4.35

To

166

The Secretary,
Legislative Council, Bangalore.

15/4/35

Dear Sir,

I have the honour to enclose herewith the draft report of the Select Committee. I agree with the report except in the matter of retaining Sec 75 of the Bill and I have also enclosed my ~~minute of dissent~~ note indicating my reasons for deleting that section from the Bill. Yours &c.

K. T. Bhashyam

-ake provision in its first bye-laws for the matters
fied in section 53 of the regulation. We are of opi
that the bye-laws of all registered banks central as we
foreign, should make provision for the matters specif
section 53 and that the power of approval of the first bye-laws a
subsequent alterations thereof should remain with the
ment in the case of Central Banks while the power of
may be delegated by the Government to the Registrar i
case of other Banks.

We therefore propose that the following be subs
for clause 7 of the bill:-

" At the end of section 53, the following words
be added -

' provided that the Government may delegate to
Registrar the power of approval mentioned in this se
in the case of any bank or class of banks. "

6. In view of the above change in section 53, c
of the bill is unnecessary and may be deleted.

8. (a) To put clause (1) (i) of section 66 as ref
to in clause 8 of the bill, the words " of the Exter
operation (Restrictions) Regulation, 1945, " may be dele
the words " the transfer of property Regulation, 191
substitute " for the words " any other law for the ti
in force. '

(b) We have recast para (ii) of subsection (3) of
66 as referred to in clause 8 of the bill as follows
to make it clear that the deduction from the proceed
shall be only of the cost of the sale:-

" From the proceeds of such sale a deduction sh
made of the costs of the sale not exceeding 6 per c
of the demand.

9. We have recast section 67 as referred to in
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169

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" Where the property mortgaged to a bank is wholly or partially destroyed or the security is rendered insufficie and the mortgagor, having been given a reasonable opportuni by the committee of the bank, of providing further security enough to render the whole security sufficient or of repay each portion of the loan as may be determined by the commi has failed to provide such security or to repay such part of the loan, the committee shall be entitled to take acti against the mortgagor under the provisions of section 66 recovery of such portion of the loan.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye of the bank. "

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should be applied to them.

But the majority of the Committee were of a diff
view and held that such a provision was quite necessa
if the facilities of getting loans from land mortgage
should be available to agriculturists who form
large portion of the population of the country. The
banks being bound by statutory provisions and con
by the Registrar and the Government, stood on a differ
footing from ordinary creditors. Further, they wo
all the enquiries which a Court would expect of the
the necessities of a loan before granting it. A fi
the section shifted only the burden of proof and di
take away the right of a coparcener or a minor from
the binding nature of a loan contracted by the mana
the family. For these reasons, the Committee, by
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retained. If a land mortgage bank in Mysore ca
grant a loan for the purchase of land, the purpose
stated in sub section(2) may be deleted. Sub secti
would run as follows:-

" For the purpose of this section, the improve
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be regarded as a purpose not binding on a member of
Hindu family ".

11. Section 76 as referred to in clause 5 of t

This section may be deleted as it is unnecessary in
the drafted definition of " Co-operative land mortga

Bank."

12. We have made a few verbal alterations in some clauses which are indicated in the bill appended.

We recommend that the bill as amended may be republished in the Gazette.

"Gary"

I cannot agree to the retention of Section 75 of the Bill. The provisions therein are not merely unnecessary but altogether undesirable. They are - likely to lead to mischievous results.

A manager of a joint Hindu family is by law authorised to deal with the family property subject to certain safeguards in the interests of the other coparceners. He cannot alienate the property except for legal necessity which in the words of their Lordships of the Privy Council in the famous Hanuman -- Prasad's case (6M.I.A 393) means "the pressure on the estate or the danger to be averted" A manager as the term implies is meant only to manage and not to play - the owner with the property. He is in possession of the property not exclusively his own but belonging also mt to others. Ordinarily he cannot and ought not to do anything with the property save with the consent of the oth members. But some or all of them may happen to be minors incapable of giving such consent; and with a view to remov the deadlock, the law authorises the manager to alienate th property under certain stated circumstances. And these ci cumstances are, naturally, very rigid. Not only should th be legal necessity, such a pressure or danger that alienat was the best or the ordinary course to be adopted, but the alienee should prove the existence of such necessity before he could successfully deprive the family of the property pur chased by him from the manager. I consider these safeguard as the very minima which could be devised for protecting the interests of those, who by reason of their infancy or otherwise, are unable to protect themselves. This will be so not merely against unscrupulous managers —there may not be many— but also against honest and well meaning managers who are incapable of saving the property by efficient and prudent

prudent management. The property has to be protected as much against imprudence and folly as against fraud and chicanery. And the property shall be deemed to be family property unless the purchaser establishes the validity of the sale in his favour. It is a very wholesome principle of Hindu Law and I am not merely reluctant but altogether opposed to its being upset.

And that is exactly what Section 75 purports to do. It authorises a manager to mortgage family property and -- saddle it with an encumbrance in order that he may speculate ~~xx~~ on the methods of cultivation or what he may consider to be an improvement of the land. I cannot agree to allow a man to experiment with other's property possibly to the ruin of both himself and the others - except of course where the others' consent, which is an altogether different matter. Supposing a manager borrows ostensibly for ~~fruit~~ fruit cultivation and fails because he had no ability to manage, ~~xx~~ is it right or proper that the minors in the family should be saddled with the debt or possibly lose the property, all because of the folly and imprudence of the Manager? or supposing a manager borrows for the purpose of improving the land"— a term which is dangerously vague — and does not improve and possibly renders the land less useful, as where chemical manures are used indiscriminately to cite ~~xxx~~ but one instance, what is the result? The land is deteriorated and the family is also indebted, a double wrong perpetrated in the name of law! I am not willing to be a party to it.

It is healthy and wholesome, it is just and proper, that a manager should be no more than a manager, prudent and ---- cautious, responsible to the co-owners, careful in the protection and preservation of the property. The moment you allow him to speculate on the methods of cultivation at the cost of the family property, you tempt him into a gamble where the

1/4

pleasure is all on his side and the stakes are mostly paid by others (I am not forgetting his own share also), and the chances are either even or mostly against his success.

We must also remember that these managers are not elected or selected and are not "agents" appointed or removable. The eldest member in the family automatically becomes the manager whatever his capacity, ability, learning or wisdom. The other members have no choice except to break up the family which is to my mind an undesirable alternative. I cannot be a party to a law which forces the minor members of a joint family between the two alternatives of either --- getting ruined by a speculating manager or breaking up the family and fractionise what little they possess.

Then again the burden which rightly has been thrown on the purchaser is now sought to be shifted on to the shoulde of the other members in the family, persons who probably do not know anything of the alienation. When a man coming of age finds that his uncle as manager of the family had mortgag valuable property and misused the money, he is called upon to prove that there was no necessity and the uncle need not have alienated, ~~that~~ is in effect to prove the negative. It is not merely unreasonable but generally impracticable. On the othe hand the present law imposing on the purchaser the need to pr the necessity for the alienation serves not merely as a wholesome check on imprudent dealings with property but enables the purchaser to furnish himself with all the requisite materials showing the necessity for the sale ~~and~~ and the validity thereof. If the burden is removed from his shoulders he may not care to enquire into the necessity, and even in case there be none, there is nothing at the moment to prevent the alienation. Th will enable imprudent managers to raise loans and involve the family unjustly in debts; and years after it may be either impossible or extremely difficult for the other members to disprove necessity.

It is said that the Land Mortgage Bank is a public body and is not likely to lend without proper enquiry. I agree and ask "when they make enquiry and satisfy themselves that there is necessity what prevents them from establishing the same in court when later the alienating alienation is challenged?" Who is in a better position, the Bank with all its resources, staff, documents and enquiries to prove the positive existence of necessity or the man who finds his property alienated by someone else years ago while he was yet a minor and is now called upon to prove the negative? You deal with a man's property behind his back and when he turns up and questions your dealing you ask hi to disprove the necessity. This is not merely unfair but will operate in most cases to defeat the just rights of the other members of a family. It is easier , safer and more practicable to direct the Bank to prove the necessity than t shift the burden contrary to the existing rule of law.

It is ridiculous besides that where a private individua is called upon to establish necessity, a Bank with all its resources should plead any difficulty in shouldering the bur den of proving the same. It is an extraordinary departure from the safe and accepted principle of law and I see no gro whatever to adopt it.

It is said that the Section is intended to facilitate t obtaining of loans by ~~xxx~~ managers. The reason given is it own condemnation. We are not anxious to facilitate loans b ing had by managers. We are anxious to relieve the indebte ness of the agricultural population by advancing loans to th at low rates of interest repayable in easy and numerous instalments. Where indebtedness exists it should be easy enough to secure the previous documents or proof of such necessity and I do not see any difficulty on the part of the Bank or the Manager of the family to secure the necessary documents and proofs. If the Bank desires to advance --- without the responsibility of enquiring into and satisfying

itself regarding the necessity for the loans it cannot claim the support of reasonable men. If the Bank enquires into and satisfies itself regarding the necessity it should have no difficulty to establish the same when called upon to do so. The plea that the shifting of the burden would facilisate loans would be meaningless unless it also meant that the loans would be advanced without any or sufficient safeguard for the necessity thereof - a circumstance which cannot be countenanced.

On all these grounds I feel that the provisions of Sec-75 of the Bill are undesirable and ought not to be retained.

With the rest of the report I agree.

T.T. Krishnamachari

Appendix F. G.–1]

two drafts

SUBJECT.....

.....

.....

Subject Report of the S.C. on the Bill further to amend the Co-operative Societies Regn.

Section.

File No.

Serial No.

No. 75825

Diary No. of letter replied to.....

To

The Registrar of Co-operative Societies in Mysore

General and Revenue Secretariat.

( )

the *193*

Date of issue 22/4/35

Signed by

Dear Sir,

With reference to D.O. letter No 716 of 18/19-3 suggesting that the words 'or Banks' 'or Central Banks' in sub-clauses (i) & (ii) of cl 2 may be omitted as the Co-operative Banks lend money on other than agricultural lands, I am desired to state that these dep

List of enclosures.....

Copied by.....

Examined by.....

varies among Mortgage Companies

and the Land Titles Act

may the meanings of these definitions and the sections applicable to Agricultural Land Mortgage Companies

As regards the first suggestion in clause 66(1)(i) the words "of the Agricultural Co-operative Societies Act, 1918," may be retained or else the words "under Section 4" may also be omitted. I am to state that the latter words have been retained as they refer to the appointing power and the former words are not necessary, as an agricultural co-operative society is a society

D.O. No. [illegible]

General and Revenue Secretariat,

Bangalore, 18th April 1935.

Dear Sir,

Subject:-Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies Regulation.

With reference to your D.O. letter No.716 dated 18/19th March 1935 suggesting that the words 'or Bank' or 'Central Bank' in Sub-Clauses (i) and (ii) of Clause 2 may be omitted as there are other Co-operative Banks lending money on other than Agricultural Lands, I am directed to state that these definitions occur in a special part applicable to Co-operative Land Mortgage Banks and that the said terms will convey the meanings in these definitions only in the Sections applicable to Co-operative Land Mortgage Banks.

As regards the other suggestions that in Clause 66 (1) (i) the words 'Of the Mysore Co-operative Societies Regulation, 1918' may be retained or else the words 'under Section 4' may also be omitted, I am to state that the latter words have to be retained as they refer to the appointing power of Government. The former words are not necessary as the refer er to a section is obviously to a Section of this Regulation.

It is therefore presumed that the Report has your approval.

Yours sincerely,

Gulam Mohiyuddin Mehkri, Esq., B.A., LL.B.,
Registrar of Co-operative Societies in Mysore,
Bangalore.

180

D. O. No. P 5826 GENERAL AND REVENUE SECRETARIAT,

Dated, Bangalore 18th April 1935.

Dear Sir,

The accompanying matter pertaining to the Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies Regulation, 1918, may kindly be set in type for being published in the Gazette in due course and two clean proofs sent to this office by the 24th instant.

Yours sincerely,

B.Srinivasa Iyengar, Esq., B.A.,
Superintendent, Government Printing,
B a n g a l o r e.

Two drafts —

161

Appendix F. G.–1]

SUBJECT.....

.....

.....

Section.

File No.

Serial No.

No. 9388/1

To —

The Superintendent

Govt Printer.

Diary No. of letter replied to.....

General and Revenue Secretariat.

( )

the *193*

Dear Sir,

Date of issue 22/6/35

Signed by

The accompanying matter pertaining to Report of the S. C. the Bill further to amend the Mysore Co-operative Societies Reg., 1918, is kindly be set in type for being published in the Gazette in due course and two clean proofs sent to this Office by

List of enclosures.....

Copied by.....

Examined by.....

6383 P 334

GOVERNMENT OF MYSORE.

DEPARTMENT OF CO-OPERATION.

Telegraphic Address:
"CO-OPERT"
BANGALORE

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE.

Dated, Bangalore, 10th May *1935.*

D.O. No. 1064

1462

Dear Sir,

With reference to your D.O.letter No.P.5825 dated 22-4-35 re: the Report of the Select Committee on the Bill to further amend the Mysore Co-operative Societies' Regulation, I write to state that I agree with the opinion expressed by you therein and that the Report has my approval.

Yours sincerely,

M. S. Mallya
10/5/35

C.Subrahmanya Iyer,Esq.,B.A.,B.L.,
Under Secretary to the Government
of Mysore,General & Revenue
Secretariat, B a n g a lo re

L.S.10/5.

NOTIFICATION.

No. Rl. 249--L. C., dated 26th April 1935.

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918, is published for general information.

By order,

C. SUBRAHMANYA AIYAR,

Secretary, Mysore Legislative Council.

Report of the Select Committee on the Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918.

We, the undersigned members of the Select Committee to which the Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918, was referred, have considered the Bill at the meeting held on the 18th February 1935 and have now the honor to submit this our Report together with a copy of the Bill as amended by us.

2. We consider that there should be one comprehensive definition of "Land Mortgage Bank" to include a Central Bank as well as a Primary Bank and that there should also be definitions of "Central Bank" and "Primary Bank" showing the distinction between them. We have accordingly recast the definitions in clause 2 as follows:—

(i) "Co-operative Land Mortgage Bank" or "Bank" means a registered society formed for granting

loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed for the purpose of financing such society.

(ii) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a Bank which has for its primary object the financing of Co-operative Land Mortgage Banks.

(iii) "Primary Land Mortgage Bank" or "Primary Bank" means a Bank affiliated to a Central Bank.

(iv) "Board" means
Bank, the committee of the Central Bank which has financed such Primary Bank.

(v) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

3. The amendment proposed in clause 3 of the Bill would make it obligatory only on a Central Bank to make provision in its first bye-laws for the matters specified in section 53 of the Regulation. We are of opinion that the bye-laws of all Land Mortgage Banks, Central as well as Primary, should make provision for the matters specified in section 53 and that the power of approval of the first bye-laws and subsequent alterations thereof should remain with the Government in the case of Central Banks while the power of approval may be delegated by the Government to the Registrar in the case of other Banks.

We therefore propose that the following be substituted for clause 3 of the Bill :-

At the end of section 53 the following words shall be added—

Provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any Bank or class of Banks.".

In view of the above change in section 53, clause 4 of the Bill is unnecessary and may be deleted.

5. (a) In sub-clause (1) (i) of section 66 as referred to in clause 5 of the Bill, the words "of the Mysore Co-operative Societies Regulation, 1918," may be deleted

and the words "the Transfer of Property Regulation, 1918" may be substituted for the words "any other law for the time being in force."

(*b*) We have recast para (ii) of sub-section (3) of section 66 as referred to in clause 5 of the Bill as follows in order to make it clear that the deduction from the proceeds of sale shall be only of the cost of the sale:—

"From the proceeds of such sale, a deduction shall be made of the costs of the sale, not exceeding 6¼ per centum of the demand."

6. We have recast section 67 as referred to in clause 5 of the Bill as follows to make the meaning clear that a Bank may take steps for recovery of the portion of the loan for which security is lacking, without recalling the entire loan:—

"Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against the mortgagor under the provisions of section 66 for the recovery of such portion of the loan.

"*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank."

7. In section 71 as referred to in clause 5 of the Bill, the words "granted after the execution of the mortgage" shall be added at the end.

8. In sub-section (1) of section 73 as referred to in clause 5 of the Bill, the words "or of the Central Bank" may be deleted, since a Central Bank is included in the definition of a Bank.

9. In section 74 as referred to in clause 5 of the Bill, the term "Bank" is intended to refer to a Primary

Bank. This will be made clear by substituting the words imary Bank" for the words "Bank" wherever it occurs in that section, except in "Central Bank."

10. *Section 75 as referred to in clause 5 of the Bill.* A few members of the Committee were of opinion that this section may be deleted on the ground that there was no necessity for giving special privilege to Land Mortgage Banks as creditors against the co-parceners of a joint Hindu family and that the ordinary rules of the Hindu Law should be applied to them.

But the majority of the Committee were of a different view and held that such a provision was quite necessary if the facilities of getting loans from Land Mortgage Banks should be available to Hindu agriculturists who form a large portion of the population of the country. The Mortgage Banks which were bound by statutory provisions and controlled by the Registrar and, the Government, stood on a different footing from ordinary creditors. Further, they would make all the enquiries which a court would expect of them, into the necessities of a loan before granting it. After all, the section shifted only the burden of proof and did not take away the right of a co-parcener or a minor from contesting the binding nature of a loan contracted by the manager of the family. For these reasons, the committee, by a majority was of the opinion that the clause is necessary and should be retained. Since a Land Mortgage Bank in Mysore cannot grant a loan for the purchase of land, the purpose (*b*) mentioned in sub-section (2) may be deleted. Sub-section (2) is recast as follows :—

For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the joint Hindu family."

11. *Section 76 as referred to in clause 5 of the Bill.*— This section may be deleted as it is unnecessary, in view of the amended definition of "Co-operative Land Mortgage Bank."

12. We have made a few verbal alterations in some clauses which are indicated in the Bill appended

We recommend that the Bill as amended may be republished in the Gazette.

K. MATTHAN, (*Chairman*).
R. RANGA RAO.
G. M. MEHKRI.
A. R. NAGESVARA IYER.
K. R. SRINIVASA IYENGAR.
D. H. CHENDRASEKHARAIYA.
MAHOMED ABBAS KHAN.
K. CHENGALARAYA REDDY.
(*Subject to a note*).
K. T. BHASHYAM AIYANGAR
(*Subject to a note*).

Note by Mr. K. Chengalaraya Reddy.

I am not convinced as to the necessity of giving any special privileges to Land Mortgage Banks as Creditors against the Co-parceners of a joint Hindu family, though I am wholeheartedly for creating as congeniai conditions as possible for the successful functioning of the Banks. On the other hand, I am apprehensive that the special privilege that is sought to be given to the Banks may encourage a tendency on their part to be somewhat lax in making full and proper investigations in such cases. In any case, the provision appears to be rather premature since there have not been many cases where the Bank has suffered in their transactions with members of a joint Hindu family.

Note by Mr. K. T. Bhashyam Aiyangar.

I cannot agree to the retention of section 75 of the Bill. The provisions therein are not merely unnecessary but altogether undesirable. They are likely to lead to mischievous results.

A manager of a joint Hindu family is by law authorised to deal with the family property subject to certain safeguards in the interests of the other co-parceners. He cannot alienate the property except for legal necessity which in the words of their Lordships of

the Privy Council in the famous Hanuman Prasad's case (6 M.I.A. 393) means "the pressure on the estate or the danger to be averted." A manager as the term implies is meant only to manage and not to play the owner with the property. He is in possession of the property not exclusively his own but belonging also to others. Ordinarily he cannot and ought not to do anything with the property save with the consent of the other members. But some or all of them may happen to be minors incapable of giving such consent; and with a view to remove the deadlock, the law authorises the manager to alienate the property under certain stated circumstances. And these circumstances are, naturally, very rigid. Not only should there be legal necessity, such a pressure or danger that alienation was the best or the ordinary course to be adopted, but the alienee should prove the existence of such necessity before he could successfully deprive the family of the property purchased by him from the manager. I consider these safeguards as the very minima which could be devised for protecting the interests of those, who by reason of their infancy or otherwise, are unable to protect themselves. This will be so not merely against unscrupulous managers—there may not be many—but also against honest and well meaning managers who are incapable of saving the property by efficient and prudent management. The property has to be protected as much against imprudence and folly as against fraud and chicanery. And the property shall be deemed to be family property unless the purchaser establishes the validity of the sale in his favour. It is a very wholesome principle of Hindu Law and I am not merely reluctant but altogether opposed to its being upset.

And that is exactly what section 75 purports to do. It authorises a manager to mortgage family property and saddle it with an encumbrance in order that he may speculate on the methods of cultivation or what he may consider to be an improvement of the land. I cannot agree to allow a man to experiment with others' property possibly to the ruin of both himself and the others—except of course where the others consent, which is an altogether different matter. Supposing a manager borrows ostensibly for fruit cultivation and fails because he had no ability to manage, is it right or proper that the minors in the family should be saddled with the debt or possibly lose

the property, all because of the folly and imprudence of the manager? Or supposing a manager borrows for the purpose of "improving the land"—a term which is dangerously vague—and does not improve and possibly renders the land less useful, as where chemical manures are used indiscriminately, to cite but one instance, what is the result? The land is deteriorated and the family is also indebted, a double wrong perpetrated in the name of law! I am not willing to be a party to it.

It is healthy and wholesome, it is just and proper, that a manager should be no more than a manager, prudent and cautious, responsible to the co-owners, careful in the protection and preservation of the property. The moment you allow him to speculate on the methods of cultivation at the cost of the family property, you tempt him into a gamble where the pleasure is all on his side and the stakes are mostly paid by others (I am not forgetting his own share also), and the chances are either even or mostly against his success.

We must also remember that these managers are not elected or selected and are not "agents" appointed or removable. The eldest member in the family automatically becomes the manager whatever his capacity, ability, learning or wisdom. The other members have no choice except to break up the family which is to my mind an undesirable alternative. I cannot be a party to a law which forces the minor members of a joint family between the two alternatives of either getting ruined by a speculating manager or breaking up the family and fractionise what little they possess.

Then again the burden which rightly has been thrown on the purchaser is now sought to be shifted on to the shoulders of the other members in the family, persons who probably do not know anything of the alienation. When a man coming of age finds that his uncle as manager of the family had mortgaged valuable property and misused the money, he is called upon to prove that there was no necessity and the uncle need not have alienated, that is in effect to prove the negative. It is not merely unreasonable but generally impracticable. On the other hand, the present law imposing on the purchaser the need to prove the necessity for the alienation serves not merely as a wholesome check on imprudent dealings with property but enables the purchaser to furnish himself with all the

requisite materials showing the necessity for the sale and the validity thereof. If the burden is removed from his shoulders he may not care to enquire into the necessity, and even in case there be none, there is nothing at the moment to prevent the alienation. This will enable imprudent managers to raise loans and involve the family unjustly in debts; and years after it may be either impossible or extremely difficult for the other members to disprove necessity.

It is said that the Land Mortgage Bank is a public body and is not likely to lend without proper enquiry. I agree and ask "when they make enquiry and satisfy themselves that there is necessity what prevents them from establishing the same in court when later the alienation is challenged?" Who is in a better position, the Bank with all its resources, staff, documents and enquiries to prove the positive existence of necessity or the man who finds his property alienated by some one else years ago while he was yet a minor and is now called upon to prove the negative? You deal with a man's property behind his back and when he turns up and questions your dealing you ask him to disprove the necessity. This is not merely unfair but will operate in most cases to defeat the just rights of the other members of a family. It is easier, safer and more practicable to direct the Bank to prove the necessity than to shift the burden contrary to the existing rule of law.

It is ridiculous besides that where a private individual is called upon to establish necessity, a Bank with all its resources should plead any difficulty in shouldering the burden of proving the same. It is an extraordinary departure from the safe and accepted principle of law and I see no ground whatever to adopt it.

It is said that the section is intended to facilitate the obtaining of loans by managers. The reason given is its own condemnation. We are not anxious to facilitate loans being had by managers. We are anxious to relieve the indebtedness of the agricultural population by advancing loans to them at low rates of interest repayable in easy and numerous instalments. Where indebtedness exists it should be easy enough to secure the previous documents or proof of such necessity and I do not see any difficulty on the part of the Bank or the manager of the family to

desires to advance without the responsibility of enquiring into and satisfying itself regarding the necessity for the loans it cannot claim the support of reasonable men. If the Bank enquires into and satisfies itself regarding the necessity it should have no difficulty to establish the same when called upon to do so. The plea that the shifting of the burden would facilitate loans would be meaningless unless it also meant that the loans would be advanced without any or sufficient safeguard for the necessity thereof—a circumstance which cannot be countenanced.

On all these grounds I feel that the provisions of section 75 of the Bill are undesirable and ought not to be retained.

With the rest of the Report I agree.

BILL AS AMENDED BY THE SELECT COMMITTEE.

[N.B.—*Portions omitted by the Select Committee are enclosed in square brackets and portions added are in italics.*]

A Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918.

Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation, VII of 1918; It is hereby enacted as follows :— Preamble.

1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation, 193 . Short title.

2. The following shall be substituted for items (1), and (2) of section 52 :—

(1) "Co-operative Land Mortgage Bank" or "Bank" means a [Co-operative] *registered* society formed [primarily] for granting loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, *or formed for the purpose of financing such society.*

(2) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a [Co-operative Land Mortgage] Bank which has [among] *for* its *primary* object [s] the financing of Co-operative Land Mortgage Banks.

3) "Primary Land Mortgage Bank" or "*Primary Bank*" ["Society"] means a [Co-operative Land Mortgage] Bank affiliated to [the] a Central [Co-operative Land Mortgage] Bank.

(4) "Board" means in relation to a *Primary* Bank, the committee of the Central [Land Mortgage] Bank which has financed such *Primary* Bank.

(5) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a [Co-operative Land Mortgage] Bank to the holders of debentures issued by such Bank.

At the end of section 53, the following words shall be added:—

'*Provided that the Government may delegate to the Registrar, the power of approval mentioned in this section in the case of any Bank or class of Banks.*'

3. [In section 53, the word "Central" shall be inserted between the words "The first bye-laws of a" and the words "Co-operative Land Mortgage Bank."]

4. In sub-clauses (*k*), (*l*) and (*m*) of section 53 and in section 54, the words "Central Bank" shall be substituted for the word "Bank" wherever it occurs.]

4. [5] The following shall be inserted as sections 66 to 79 [80] re-numbering the existing sections 66 and 67 as sections 80 [81] and 81 [82] respectively

66 (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under section 4 [of the Mysore Co-operative Societies Regulation, 1918,] to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in *the Transfer of Property Regulation*, 1918 [any other law for the time being in force], take such action as is necessary to distrain and sell such produce :

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

Distraint how to be effected.

(2) (i) Before or at the time when a distraint is made under sub-section (1), the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made [at a rate not exceeding one anna in the rupee on account] of the costs of the sale *not exceeding* 6¼ *per centum of the demand.*

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

Power of Government to make rules.

(4) The Government may make rules—

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property; and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section."

Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

67. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the [Mortgage] Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, [the whole of the loan shall be deemed to fall due at once and] the committee shall be entitled to take action against the mortgagor, *under the provisions of section 66* for the recovery [thereof] *of such portion of the loan.*

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

68. (1) The Board or the Registrar may direct the committee of a Bank to take action against a defaulter under section 66 or section 67 and if the committee neglects or fails to do so, the Board or the Registrar may take such action.

(2) (*a*) Where such action is taken by the Board, the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Bank and to its committee in the said provisions were references to the Central Bank and the Board respectively.

(*b*) Where such action is taken by the Registrar the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Bank or to its committee in the said provisions were references to the Registrar.

Mortgagor's power to lease.

69. Notwithstanding anything contained in the Transfer of Property Regulation, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

70. Notwithstanding anything contained in the Mysore Insolvency Regulation, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditors of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Regulation.

71. A mortgage executed in favour of a Bank after the commencement of this Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Regulation, 1890, *granted after the execution of the mortgage.*

Right of Bank to pay prior debts of mortgagor.

72. Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Regulation, 1918, by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

73. (1) Notwithstanding anything contained in the Mysore Registration Regulation, 1903, it shall not be necessary for any director, secretary or other officer of a Bank [or of the Central Bank] to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Regulation.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented

for registration may, if he thinks fit, refer to such director, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Power of a *Primary* Bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Bank.

74. Notwithstanding the transfer of a mortgage by a *Primary* Bank to the Central Bank—

(*a*) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the *Primary* Bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(*b*) the *Primary* Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the *Primary* Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by managers of joint Hindu families.

75. (1) Where a mortgage executed in favour of a Bank either before or after the passing in this Regulation is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, [the following] the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose[s] not binding on a member of the joint Hindu family. [namely:—]

[(*a*)] [and] [(*b*) the purchase of land.]

Section 66 to apply to loans advanced by Banks from funds not borrowed from the Central Bank.]

[76. The provisions of section 66 shall apply also to the loans advanced by Banks from funds which have not been borrowed from the Central Bank.]

Service of notices under these sections.

76. [77.] Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

The Transfer of Property Regulation to apply to such notices.

77. [78.] The provisions of sections 102 and 103 of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation for carrying out the purposes of the said

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

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sections, shall apply, so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

Officers of a Bank[s] and of a [the] Central Bank and sale officers not to bid at sales.

78. [79.] At any sale of movable property held under the provisions of section 66 in order to recover any money due to a Bank, no director, secretary or other officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is [a] director, [or] secretary or [an] officer, and no sale officer or other person[s] having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by Board.

79. [80.] The Board may, if it thinks fit, delegate all or any of its powers under section 68 to an executive committee constituted by it and consisting of two or more of its members.

Printed by the Superintendent at the Government Press, Bangalore.

G.R.S 44]

No.....

GENERAL AND REVENUE SECRETARIAT

Unofficial Memorandum.

The cases noted below were referred unofficially to the

Department, on the dates specified.

Will the Department kindly say, when their return be expected, or inform the General and Revenue Secretariat what action, if any, has been taken on them?

It is requested that the General and Revenue Secretariat may be favoured with a reply to this reminder not later than the

Dated.....

.....*191*

Revised draft 194

a 20/11/32

A BILL FURTHER TO AMEND THE MYSORE CO-OPERATIVE SOCIETIES REGULATION VII OF 1918.

*****:0:*****

Preamble. Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation, VII of 1918; It is hereby enacted as follows:-

Short title. 1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation 193

2, The following shall be substituted for Section 52:

(i) "Co-operative Land Mortgage Bank" means a Co-operative Society formed primarily for granting loans on the mortgage of agricultural land for the liquidati of prior debts of agriculturists or for the improvemen or better cultivation of agricultural land.

(ii) "Central Co-operative Land Mortgage Bank" or Central Bank means a Co-operative Land Mortgage Bank which has amon its objects the financing of Co-operative Land Mortgage Banks.

(iii) "Primary Land Mortgage Bank" or "Society" shall mean a Co-operative Land Mortgage Bank affiliated to the Central Co-operative Land Mortgage Bank.

(iv) "Board" means, in relation to a Bank, the Committee of the Central Land Mortgage Bank which has financed such Bank.

(v) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligati of a Co-operative Land Mortgage Bank to the holder of debentures issued by such Bank.

3. In Section 53 the word " Central " shall be inserted between the words " The first bye-laws of " and " Co-operative Land Mortgage Bank ".

4. In Section 53 clauses (k) (l) and (m) and in ~~4. In the first line of Section 54~~, the words " ~~Central Co-operative Land Mortgage " shall be in~~ Central Bank" shall be substituted for the word wherever it occurs.

inserted between the words "When the interest of any loan raised by the " and " Bank ".

Addition of new Sections 66 to 80.

5. The following shall be inserted as Sections 66 to 80 renumbering the existing Sections 66 and 67 as Sections 81 and 82 respectively.

Distraint and sale of produce when to be made.

" 66 (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under Section 4 of the Mysore Co-operative Societies' Regulation of 1918, to assist the Registrar, for the recovery of such instalment or part of by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application the Registrar or such person may, notwithstanding anything contained in any other law for the time being in force, take such action as is necessary to distrain and sell such produce:

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

Distraint how to be effected.

(2) (i) Before or at the time when a distraint is made under sub-section (1) the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy of to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2) the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one anna in the rupee on account of the costs of the sale.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to th discharge of the amount for which the distraint was mad

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

(4) The Government may make rules ___

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the

the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section.

Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

Mad 24

67. Where any property mortgaged to a ~~mortgage~~ bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the ~~mortgage~~ bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor, for the recovery thereof.

Explanation - A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the ~~mortgage~~ bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.,

Mad 25

68. (1) The Board or the Registrar may direct the committee of a bank to take action against a defaulter under ~~section 60, or~~ section 66 ~~as the case may be,~~ or section 67 and if the committee neglects or fails to do so the Board or the Registrar may take such action.

(2) (a) Where such action is taken by the Board, the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the bank and to its committee in the said provisions were references to the Central ~~Land Mortgage~~ Bank and the Board respectively

respectively.

(b) Where such action is taken by the Registrar the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the bank or to its committee in the said provisions were references to t Registrar.

Mortgagor's power to lease.

Mad 26

69. Notwithstanding anything contained in the Transfer of Property Regulation, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on ir solvency of mortgagor.

Mad 27

70. Notwithstanding anything contained in the Mysore Insolvency Regulation, 1925, a mortgage executed in favor of a bank shall not be called in question on ground that it was not executed in good faith for valuable consideration or on the ground that it wa executed in order to give the bank a preference ov the other creditors of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Regulation, ~~and the Mysore Land Revenue Code~~

Mad 28

71. A mortgage executed in favor of a bank af the commencement of this Regulation shall have priority over any claim of the Government arising a loan under the Land Improvement Loans Regulation ~~or Section 194 of the Mysore Land Revenue Code, 18~~ ~~granted after the execution of the mortgage.~~ Granted after the execution of the mortgage

Right of Bank to pay prior debts of mortgagor.

72. Where a mortgage is executed in favor of a Bank for payment of prior debts of the mortgagor, t bank may, notwithstanding the provisions of Section 83 and 84 of the Transfer of Property Regulation, 1 by notice in writing, require any person to whom an such debt is due to receive payment of such debt or part thereof from the bank within such period as ma

be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a bank or of the Central Land Mortgage Bank.

73. (1) Notwithstanding anything contained in the Mysore Registration Regulation, 1903, it shall not be necessary for any Director, Secretary or other officer of a bank or of the Central ~~Land Mortgage~~ Bank to appear in person or by agent at any registration offic in any proceeding connected with the registration of any instrument executed by him in his official capacit or to sign as provided in Section 58 of that regulatio

(2) Where any instrument is so executed, the registering officer to whom such instrument is present for registration may, if he thinks fit, refer to such Director, Secretary or officer for information respect the same, and on being satisfied of the execution ther shall register the instrument.

Power of a bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Land Mortgage Bank.

74. Notwithstanding the transfer of a mortgage by a bank to the Central ~~Land Mortgage~~ Bank,—

(a) all moneys due under the mortgage shall, in the absence of any specified direction to the contrary issued by the Board or Registrar and communicated to the mortgagor, be payable to the bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(b) the bank shall, in the absence of any specific

specific direction to the contrary issued by the Board o Registrar and communicated to the bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by Managers of Joint Hindu Families.

Mad 32

75. (1) Where a mortgage executed in favour of a bank either before or after the passing of this regula is called in question on the ground that it was execut by the manager of a joint Hindul family for a purpose not binding on the members thereof whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the followin shall not be regarded as purposes not binding on a member of the joint Hindu family, namely -

(a) the improvement of agricultural land or of the methods of cultivation; and

(b) the purchase of land.

Section 66 to apply to loans advanced by banks from funds not borrowed from the Central Land Mortgage Bank.

Mad 33

76. The provisions of section 66 shall apply also to the loans advanced by banks from funds which have no been borrowed from the Central ~~Land Mortgage~~ Bank.

Service of notices under these sections.

Mad 34

77. Whenever under the provisions of ~~section 66~~ special notice is required to be given to any person in writing it shall be sufficient to send such notice by registere post.

The transfer of property regulation to apply to such notices.

78. The provisions of sections 102 and 103 of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation for carrying out the purposes of the said section shall apply so far as may be, in respect of a

all notices to be served under ~~Section 66 of Chapter~~

Officers of Banks and of the Central Land Mortgage Bank and sale officers not to bid at sales.

79. At any sale of movable property held under the provisions of sections 66 in order to recover any money due to the Bank no Director, Secretary or other officer of such bank or of the Central ~~Land Mortgage~~ Bank (except on behalf of the Bank of which he is a Director, or Secretary or an officer) nor other person having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by Board.

80. The Board may, if it thinks fit, delegate all or any of its powers under Sections 68 ~~66 and 79~~ to an executive committee constituted by it and consisting of two or more of its members.

Statement of ~~General Principles of the Bill to Amend the Mysore Co-operative Societies Regulation, 1918~~ Objects and Reasons.

Special provisions relating to Co-operative Land Mortgage Banks were added by egulation V of 1929 to the Mysore Co-operative Societies Regulation, 1918.

The working of the Banks during the last four years have disclosed that the isting provisions are inadequate for the successful working of the mortgage banks. ıe question of adequate powers for the speedy recovery of arrears from defaulters is fundamental importance. The Mysore Co-operative Land Mortgage Bank, ıngalore, has urged the desirability of adding to the existing provisions in the Co-erative Societies Regulation certain provisions introduced in Madras by the Land

[ortgage Banks Act, X of 1934, relating to the powers and the administration of ıe Banks.

The main changes proposed to be introduced are as follows:—

1. In case of default in payment of instalments due, the Registrar will be npowered on the application of the Mortgage Bank to distrain the produce of the ıortgaged land including the standing crops thereon under appropriate safeguards ıd to bring them to sale.

2. Where the mortgaged property is wholly or partially destroyed or the ecurity is rendered insufficient, the Bank will have the right to demand further ecurity or to proceed to distrain and sell the produce of the mortgaged land.

3. Where a primary bank fails to take action against a defaulter, the Board of the Central Mortgage Bank or the Registrar may take the necessary action.

4. It is considered desirable to prevent the mortgagor from leasing the mortgaged property for a period longer than five years.

5. Provision is made for safeguarding the interests of mortgage banks by preventing mortgages executed in favour of the Bank from being called into question in insolvency proceedings and by securing priority to a mortgage debt in favour of a mortgage bank over any claim of the Government arising from a loan under the Land Improvement Loans Regulation granted after the execution of the mortgage.

6. The Mortgage Bank will be given the right to require a prior creditor of the mortgagor to receive payment, and in case of refusal interest will cease to run.

7. Registration of documents executed on behalf of a mortgage bank will be permitted without the appearance in person before the Sub-Registrar of any officer of the Bank.

8. The burden of proving that a mortgage executed by the manager of a joint Hindu family is not binding on the members thereof shall lie on the party raising it.

9. Sections 52, 53 and 54 of the Mysore Co-operative Societies Regulation, as hey now stand, make it obligatory on the part of Government to sanction the bye-aws of primary land mortgage societies and the amendments that may be passed rom time to time. It is proposed to make this requirement of Government anction applicable only to the Central Land Mortgage Banks.

The Bill is intended to give effect to these changes.

NOTIFICATION.

No. 1985—L. C., dated Bangalore, 27th November 1934.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918, is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Legislative Council.

A Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918.

Preamble.

Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation, VII of 1918; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation 193 .

2. The following shall be substituted for section 52 :—

(i) "Co-operative Land Mortgage Bank" or "Bank" means a Co-operative Society formed ~~primarily~~ for granting loans on the mortgage of agricultural land for the liquidation of prior debts of agriculturists or for the improvement or better cultivation of agricultural land;

(ii) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a Co-operative Land Mortgage Bank which has ~~among~~ its objects the financing of Co-operative Land Mortgage Banks.

(iii) "Primary Land Mortgage Bank" or "~~Society~~" means a Co-operative Land Mortgage Bank affiliated to ~~the~~ Central ~~Co-operative Land Mortgage~~ Bank.

(iv) "Board" means in relation to a Bank, the Committee of the Central ~~Land Mortgage~~ Bank which has financed such Bank.

(v) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a ~~Co-operative Land Mortgage~~ Bank to the holders of debentures issued by such Bank.

Add the following at the end of Section 53 —
"Provided that the Government may delegate to the Registrar the power of approval mentioned in this section in the case of any bank or class of banks."

3. ~~In section 53, the word "Central" shall be inserted between the words "The first bye-laws of a" and the words "Co-operative Land Mortgage Bank."~~

4. In sub-clauses (*k*), (*l*) and (*m*) of section 53 and in section 54, the words "Central Bank" shall be substituted for the word "Bank" wherever it occurs.

Addition of new sections 66 to 80.

5. The following shall be inserted as sections 66 to 80 re-numbering the existing sections 66 and 67 as sections 81 and 82, respectively:—

Distraint and sale of produce when to be made.

"66 (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under section 4 ~~of the Mysore Co-operative Societies Regulation, 1918~~, to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in ~~any other law for the time being in force~~, take such action as is necessary to distrain and sell such produce:

Transfer of ... Regulation, 1918, ...

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

Distraint how to be effected.

(2) (i) Before or at the time when a distraint is made under sub-section (1) the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made ~~at a rate not exceeding one anna in the rupee on account~~ of the costs of the sale, not exceeding 6¼ per centum of the demand.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

(4) The Government may make rules— Power to Government to make rules.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section.

67. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Committee of the ~~Mortgage~~ Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Committee, has failed to provide such security or to repay such portion of the loan, ~~the whole of the loan shall be deemed to fall due at once and~~ the Committee shall be entitled to take action against the mortgagor for the recovery ~~thereof~~ of such portion of the loan. Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

68. (1) The Board or the Registrar may direct the Committee of a Bank to take action against a defaulter under section 66 or section 67 and if the Committee neglects or fails to do so, the Board or the Registrar may take such action.

(2) (*a*) Where such action is taken by the Board, the provisions of this Regulation and of any Rules or Regulations made thereunder shall apply in respect thereto as if all references to the Bank and to its Committee in the said provisions were references to the Central Bank and the Board, respectively.

(*b*) Where such action is taken by the Registrar the provisions of this Regulation and of any Rules or Regulations made thereunder shall apply in respect thereto as if all references to the Bank or to its Committee in the said provisions were references to the Registrar.

Mortgagor's power to lease.

69. Notwithstanding anything contained in the Transfer of Property Regulation, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

70. Notwithstanding anything contained in the Mysore Insolvency Regulation, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditors of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Regulation.

71. A mortgage executed in favour of a Bank after the commencement of this Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Regulation, 1890, after the execution of the mortgage.

Right of Bank to pay prior debts of mortgagor.

72. Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 82 and 84 of the Transfer of Property Regulation, 1918, by notice in writing, require any person to whom any such

debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

73. (1) Notwithstanding anything contained in the Mysore Registration Regulation, 1903, it shall not be necessary for any Director, Secretary or other Officer of a Bank ~~or of the Central Bank~~ to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that regulation.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or Officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Power of a Bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Bank.

74. Notwithstanding the transfer of a mortgage by a Bank to the Central Bank—

(*a*) All moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the Bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(*b*) the Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the Bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by Managers of Joint Hindu Families.

75. (1) Where a mortgage executed in favour of a Bank either before or after the passing of this Regulation is called in question on the ground that it was executed by the Manager of a Joint Hindu Family for a purpose not binding on the members thereof whether major or minor,

the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, ~~the following~~ shall not be regarded as purposes not binding on a member of the Joint Hindu Family, ~~namely~~—

~~(a)~~ the improvement of agricultural land or of the methods of cultivation ~~and~~

~~(b) the purchase of land.~~

Section 66 to apply to loans advanced by Banks from funds not borrowed from the Central Bank.

~~76.~~ The provisions of section 66 shall apply also to the loans advanced by Banks from funds which have not been borrowed from the Central Bank.

Service of notices under these sections.

77. Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

The Transfer of Property Regulation to apply to such notices.

78. The provisions of sections 102 and 103 of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation for carrying out the purposes of the said sections shall apply so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

Officers of a Bank and of the Central Bank and sale officers not to bid at sales.

79. At any sale of movable property held under the provisions of section 66 in order to recover any money due to a Bank, no Director, Secretary or other Officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is a Director, or Secretary or an Officer) and no sale officer or other persons having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by Board.

80. The Board may, if it thinks fit, delegate all or any of its powers under section 68 to an executive committee constituted by it and consisting of two or more of its members.

Statement of Objects and Reasons.

Special provisions relating to Co-operative Land Mortgage Banks were added by Regulation V of 1929 to the Mysore Co-operative Societies Regulation, 1918.

213 B/S

The working of the Banks during the last four years ave disclosed that the existing provisions are inadequate r the successful working of the Mortgage Banks. The uestion of adequate powers for the speedy recovery of rears from defaulters is of fundamental importance. he Mysore Co-operative Land Mortgage Bank, Bangalore, as urged the desirability of adding to the existing provions in the Co-operative Societies Regulation certain rovisions introduced in Madras by the Land Mortgage anks Act, X of 1934, relating to the powers and the dministration of the Banks.

The main changes proposed to be introduced are as llows :—

1. In case of default in payment of instalments due, ie Registrar will be empowered on the application of the lortgage Bank to distrain the produce of the mortgaged nd including the standing crops thereon under appro- riate safeguards and to bring them to sale.

2. Where the mortgaged property is wholly or artially destroyed or the security is rendered insufficient, ie Bank will have the right to demand further security to proceed to distrain and sell the produce of the ortgaged land.

3. Where a primary bank fails to take action against defaulter, the Board of the Central Mortgage Bank or ie Registrar may take the necessary action.

4. It is considered desirable to prevent the mortgagor om leasing the mortgaged property for a period longer an five years.

5. Provision is made for safeguarding the interests f Mortgage Banks by preventing mortgages executed in avour of the Bank from being called into question in nsolvency proceedings and by securing priority to a mort- age debt in favour of a Mortgage Bank over any claim of he Government arising from a loan under the Land provement Loans Regulation granted after the execu- n of the mortgage.

6. The Mortgage Bank will be given the right to uire a prior creditor of the mortgagor to receive ment, and in case of refusal interest will cease to run.

7. Registration of documents executed on behalf of ortgage Bank will be permitted without the appearance n before the Sub-Registrar of any Officer of the

8. The burden of proving that a mortgage execut by the Manager of a Joint Hindu Family is not binding the members thereof shall lie on the party raising it.

9. Sections 52, 53 and 54 of the Mysore Co-operati Societies Regulation, as they now stand, make obligatory on the part of the Government to sanction t bye-laws of primary Land Mortgage Societies and t amendments that may be passed from time to time. It proposed to make this requirement of Governme sanction applicable only to the Central Land Mortga Banks.

NOTIFICATION.

No. 1985—L. C., dated Bangalore, 27th November 1934.

Under Rule 8 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918, is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Legislative Council.

A Bill further to amend the Mysore Co-operative Societies Regulation, VII of 1918.

Preamble.

Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation, VII of 1918; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation 193 .

2. The following shall be substituted for section 52 :—

(i) "Co-operative Land Mortgage Bank" or "Bank" means a Co-operative Society formed primarily for granting loans on the mortgage of agricultural land for the liquidation of prior debts of agriculturists or for the improvement or better cultivation of agricultural land.

(ii) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a Co-operative Land Mortgage Bank which has among its objects the financing of Co-operative Land Mortgage Banks.

(iii) "Primary Land Mortgage Bank" or "Society" means a Co-operative Land Mortgage Bank affiliated to the Central Co-operative Land Mortgage Bank.

(iv) "Board" means in relation to a Bank, the Committee of the Central Land Mortgage Bank which has financed such Bank.

(v) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a Co-operative Land Mortgage Bank to the holders of debentures issued by such Bank.

3. In section 53, the word "Central" shall b inserted between the words "The first bye-laws of a" an the words "Co-operative Land Mortgage Bank."

4. In sub-clauses (*k*), (*l*) and (*m*) of section 53 an in section 54, the words "Central Bank" shall be substi tuted for the word "Bank" wherever it occurs.

Addition of new sections 66 to 80.

5. The following shall be inserted as sections 66 t 80 re-numbering the existing sections 66 and 67 as section 81 and 82, respectively:—

Distraint and sale of produce when to be made.

"66 (1) (i) If any instalment payable und mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee of th Bank may, in addition to any other remedy available t the Bank, apply to the Registrar or to any person appointe by the Government under section 4 of the Mysore Co operative Societies Regulation, 1918, to assist the Regis trar, for the recovery of such instalment or part by distrain and sale of the produce of the mortgaged land includin the standing crops thereon. On receipt of such application the Registrar or such person may, notwithstanding any thing contained in any other law for the time being i force, take such action as is necessary to distrain and sel such produce:

Provided that no distraint shall be made after th expiry of twelve months from the date on which th instalment fell due.

(ii) The distress shall not be excessive; the valu of the property distrained shall be, as nearly as possible equal to the amount due and the expenses of the distrain and the costs of the sale.

(2) (i) Before or at the time when a distraint i made under sub-section (1) the distrainer shall serve o cause to be served upon the defaulter a written deman specifying the amount for which the distraint is made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made at a rate not exceeding one anna in the rupee on account of the costs of the sale.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

(4) The Government may make rules— Power to Government to make rules.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property, and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section."

67. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Committee of the Mortgage Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the Committee shall be entitled to take action against the mortgagor, for the recovery thereof, Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

68. (1) The Board or the Registrar may direct the Committee of a Bank to take action against a defaulter under section 66 or section 67 and if the Committee neglects or fails to do so, the Board or the Registrar may take such action.

(2) (*a*) Where such action is taken by the Board, the provisions of this Regulation and of any Rules or Regulations made thereunder shall apply in respect thereto as if all references to the Bank and to its Committee in the said provisions were references to the Central Bank and the Board, respectively.

(*b*) Where such action is taken by the Registrar the provisions of this Regulation and of any Rules or Regulations made thereunder shall apply in respect thereto as if all references to the Bank or to its Committee in the said provisions were references to the Registrar.

Mortgagor's power to lease.

69. Notwithstanding anything contained in the Transfer of Property Regulation, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

70. Notwithstanding anything contained in the Mysore Insolvency Regulation, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditor of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Regulation.

71. A mortgage executed in favour of a Bank after the commencement of this Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Regulation, 1890.

Right of Bank to pay prior debts of mortgagor.

72. Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Regulation, 1918, by notice in writing, require any person to whom any such

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debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice.

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

73. (1) Notwithstanding anything contained in the Mysore Registration Regulation, 1903, it shall not be necessary for any Director, Secretary or other Officer of a Bank or of the Central Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that regulation.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such Director, Secretary or Officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Power of a Bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Bank.

74. Notwithstanding the transfer of a mortgage by a Bank to the Central Bank—

(*a*) All moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the Bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(*b*) the Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the Bank be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special provision for mortgages executed by Managers of Joint Hindu Families.

75. (1) Where a mortgage executed in favour of a Bank either before or after the passing of this Regulation is called in question on the ground that it was executed by the Manager of a Joint Hindu Family for a purpose not binding on the members thereof whether major or minor,

the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the following shall not be regarded as purposes not binding on a member of the Joint Hindu Family, namely—

(*a*) the improvement of agricultural land or of the methods of cultivation ; and

(*b*) the purchase of land.

Section 66 apply to loans advanced by Banks from funds not borrowed from the Central Bank.

76. The provisions of section 66 shall apply also to the loans advanced by Banks from funds which have not been borrowed from the Central Bank.

Service of notices under these sections.

77. Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

The Transfer of Property Regulation to apply to such notices.

78. The provisions of sections 102 and 103 of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation for carrying out the purposes of the said sections shall apply so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

Officers of Banks and of the Central Bank and sale officers not to bid at sales.

79. At any sale of movable property held under the provisions of section 66 in order to recover any money due to a Bank, no Director, Secretary or other Officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is a Director, or Secretary or an Officer, and no sale officer or other persons having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

Delegation of certain powers by

80. The Board may, if it thinks fit, delegate all or any of its powers under section 68 to an executive committee constituted by it and consisting of two or more of its members."

Statement of Objects and Reasons.

Special provisions relating to Co-operative Land Mortgage Banks were added by Regulation V of 1929 to the Mysore Co-operative Societies Regulation, 1918.

The working of the Banks during the last four years ve disclosed that the existing provisions are inadequate r the successful working of the Mortgage Banks. The estion of adequate powers for the speedy recovery of rears from defaulters is of fundamental importance. ie Mysore Co-operative Land Mortgage Bank, Bangalore, s urged the desirability of adding to the existing provi- ons in the Co-operative Societies Regulation certain ovisions introduced in Madras by the Land Mortgage anks Act, X of 1934, relating to the powers and the ministration of the Banks.

The main changes proposed to be introduced are as llows :—

1. In case of default in payment of instalments due, e Registrar will be empowered on the application of the ortgage Bank to distrain the produce of the mortgaged id including the standing crops thereon under appro- iate safeguards and to bring them to sale.

2. Where the mortgaged property is wholly or rtially destroyed or the security is rendered insufficient, e Bank will have the right to demand further security to proceed to distrain and sell the produce of the ortgaged land.

3. Where a primary bank fails to take action against lefaulter, the Board of the Central Mortgage Bank or e Registrar may take the necessary action.

4. It is considered desirable to prevent the mortgagor m leasing the mortgaged property for a period longer an five years.

5. Provision is made for safeguarding the interests Mortgage Banks by preventing mortgages executed in avour of the Bank from being called into question in nsolvency proceedings and by securing priority to a mort- gage debt in favour of a Mortgage Bank over any claim of he Government arising from a loan under the Land mprovement Loans Regulation granted after the execu- ion of the mortgage.

6. The Mortgage Bank will be given the right to equire a prior creditor of the mortgagor to receive ayment, and in case of refusal interest will cease to run.

7. Registration of documents executed on behalf of Mortgage Bank will be permitted without the appearance n person before the Sub-Registrar of any Officer of the Bank.

8. The burden of proving that a mortgage exec by the Manager of a Joint Hindu Family is not binding the members thereof shall lie on the party raising it.

9. Sections 52, 53 and 54 of the Mysore Co-opera Societies Regulation, as they now stand, make obligatory on the part of the Government to sanction bye-laws of primary Land Mortgage Societies and amendments that may be passed from time to time. I proposed to make this requirement of Governm sanction applicable only to the Central Land Mortg Banks.

G. R. S. VI.—S-III/14]

DRAFT.

SUBJECT.....

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Section. Leg C
File No. 14-
Serial No. 1

Diary No. of letter replied to.

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. P. 310/Sec 1

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....*191* .

Ordered that the accompanying Regn further thn to amend the Cooperative Societies R which received the assent of His Highness the Maharaja, on the 9th day of July 1935, be published as Regulation No. I of 1935, in the *Mysore Gazette* for general information.

Date of issue 15/7/35

Signed by [signature]

Secretary to Government.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Publis[illegible]n the "Gazette" Kannada part?

To 11/7

The Compiler, *Mysore Gazette*, for publication in Part ~~III~~ IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada as per ~~to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore~~. Proofs should be sent to this office for approval before publicat[illegible]

REGULATION I OF 1935.

A REGULATION FURTHER TO AMEND THE MYSORE CO-OPERATIVE SOCIETIES REGULATION VII OF 1918.

Price: 0-0-9

NOTIFICATION.

Order No. P. 310—Legis., dated Bangalore, 12—15th July 1935.

Ordered that the accompanying Regulation further to amend the Mysore Co-operative Societies Regulation, 1918, which received the assent of His Highness the Maharaja, on the 9th day of July 1935, be published as Regulation No. 1 of 1935, in the *Mysore Gazette* for general information.

By Order,

H. V. RAMASVAMI,
Secretary to Government,
General Department.

REGULATION I OF 1935.

(Received the assent of His Highness the Maharaja on the 9th day of July 1935.)

A Regulation further to amend the Mysore Co-operative Societies Regulation VII of 1918.

Whereas it is expedient further to amend the Mysore Co-operative Societies Regulation VII of 1918; It is hereby enacted as follows:— Preamble.

1. This Regulation may be called the Mysore Co-operative Societies (Amendment) Regulation, 1935. Short title.

2. The following shall be substituted for items (1), and (2) of section 52:—

(1) "Co-operative Land Mortgage Bank" or "Bank" means a registered society formed for granting loans on the mortgage of agricultural land, for the liquidation of prior debts of agriculturists, or for the improvement or better cultivation of agricultural land, or formed primarily for the purpose of financing such society.

(2) "Central Co-operative Land Mortgage Bank" or "Central Bank" means a Bank which has for its primary object the financing of Co-operative Land Mortgage Banks.

(3) "Primary Land Mortgage Bank" or "Primary Bank" means a Bank affiliated to a Central Bank.

) "Board" means in relation to a Primary Bank, the committee of the Central Bank which has financed such Primary Bank

5) "Trustee" means the person appointed by the Government to secure the fulfilment of the obligations of a Bank to the holders of debentures issued by such Bank.

3. At the end of section 65, the following words shall be added :—

'Provided that the Government may delegate to the Registrar, the power of approval mentioned in this section in the case of any Bank or class of Banks.'

Addition of new sections 66 to 79.

4. The following shall be inserted as sections 66 to 79 re-numbering the existing sections 66 and 67 as sections 80 and 81 respectively :

Distraint and sale of produce when to be made.

"66 (1) (i) If any instalment payable under a mortgage executed in favour of a Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee of the Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or to any person appointed by the Government under section 4 to assist the Registrar, for the recovery of such instalment or part by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Regulation, 1918, take such action as is necessary to distrain and sell such produce :

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(ii) The distress shall not be excessive ; the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

Distraint how to be effected.

2) (i) Before or at the time when a distraint is made under sub-section (1), the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(ii) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by

delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

(3) (i) If, within fifteen days from the date of service of the demand referred to in sub-section (2), the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale.

(ii) From the proceeds of such sale, a deduction shall be made of the costs of the sale not exceeding 6¼ per centum of the demand.

(iii) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(iv) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(v) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

(4) The Government may make rules— Power of Government to make rules.

(i) for the manner of effecting distraint;

(ii) for the custody, preservation and sale of the distrained property;

(iii) for the investigation of claims by persons other than the defaulter to any right or interest in the distrained property; and for the postponement of the sale pending such investigation;

(iv) for the immediate sale of perishable articles; and

(v) generally for the purpose of carrying out the provisions of this section."

67. Where any property mortgaged to a Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the Bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the committee shall be entitled to take action against Powers of Bank in case the mortgaged property is wholly or partially destroyed or the security is rendered insufficient.

the mortgagor, under the provisions of section 66 for the recovery of such portion of the loan.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Bank.

Power of Board or of Registrar to direct distraint and sale of produce and the sale of mortgaged property, etc.

8. (1) The Board or the Registrar may direct the committee of a Bank to take action against a defaulter under section 66 or section 67 and if the committee neglects or fails to do so, the Board or the Registrar may take such action.

(2) (*a*) Where such action is taken by the Board the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the Bank and to its committee in the said provisions were references to the Central Bank and the Board respectively.

(*b*) Where such action is taken by the Registrar, the provisions of this Regulation and of any rules or regulations made thereunder shall apply in respect thereof as if all references to the Bank or to its committee in the said provisions were references to the Registrar.

Mortgagor's power to lease.

69. Notwithstanding anything contained in the Transfer of Property Regulation, 1918, the duration of any lease executed by a mortgagor of property mortgaged to a Bank after the execution of the mortgage shall in no case exceed five years.

Mortgage not to be questioned on insolvency of mortgagor.

70. Notwithstanding anything contained in the Mysore Insolvency Regulation, 1925, a mortgage executed in favour of a Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Bank a preference over the other creditors of the mortgagor.

Priority of mortgage over claims arising under the Land Improvement Loans Regulation.

71. A mortgage executed in favour of a Bank after the commencement of this Regulation shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Regulation, 1890 granted after the execution of the mortgage.

Right of Bank to pay prior debts of mortgagor.

72. Where a mortgage is executed in favour of a Bank for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Regulation, 1918, by notice in writing, require any person to whom any such

debt is due to receive payment of such debt or part thereof from the Bank within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice :

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

Registration of documents executed on behalf of a Bank or of the Central Bank.

3. (1) Notwithstanding anything contained in the Mysore Registration Regulation, 1903, it shall not be necessary for any director, secretary or other officer of a Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Regulation.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such director, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

Power of a Primary Bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the Central Bank.

74. Notwithstanding the transfer of a mortgage by a Primary Bank to the Central Bank—

(*a*) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the mortgagor, be payable to the Primary Bank and such payment shall be as valid as if the mortgage had not been so transferred; and

(*b*) the Primary Bank shall, in the absence of any specific direction to the contrary issued by the Board or the Registrar and communicated to the Primary Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Special pr sion for mortgages executed b managers c. joint Hindu

75. (1) Where a mortgage executed in favour of a Bank either before or after the passing of this Regulation is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not

the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) For the purpose of this section, the improvement of agricultural land or of the methods of cultivation shall not be regarded as a purpose not binding on a member of the joint Hindu family.

Service of notices under these sections.

76. Whenever under the special provisions relating to Co-operative Land Mortgage Banks, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

The Transfer of Property Regulation to apply to such notices.

77. The provisions of sections 102 and 103 of the Transfer of Property Regulation, 1918, and of any rules made by the High Court under section 104 of that Regulation for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under the special provisions relating to Co-operative Land Mortgage Banks.

Officers of a Bank and of the Central Bank and sale officers not to bid at sales.

78. At any sale of movable property held under the provisions of section 66 in order to recover any money due to a Bank, no director, secretary or other officer of such Bank or of the Central Bank (except on behalf of the Bank of which he is director, secretary or officer,) and no sale officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property

Delegation of certain powers by Board.

79. The Board may, if it thinks fit, delegate a or any of its powers under section 68 to an executive committee constituted by it and consisting of two or more of its members.

MIRZA M. ISMAIL,
Dewan.